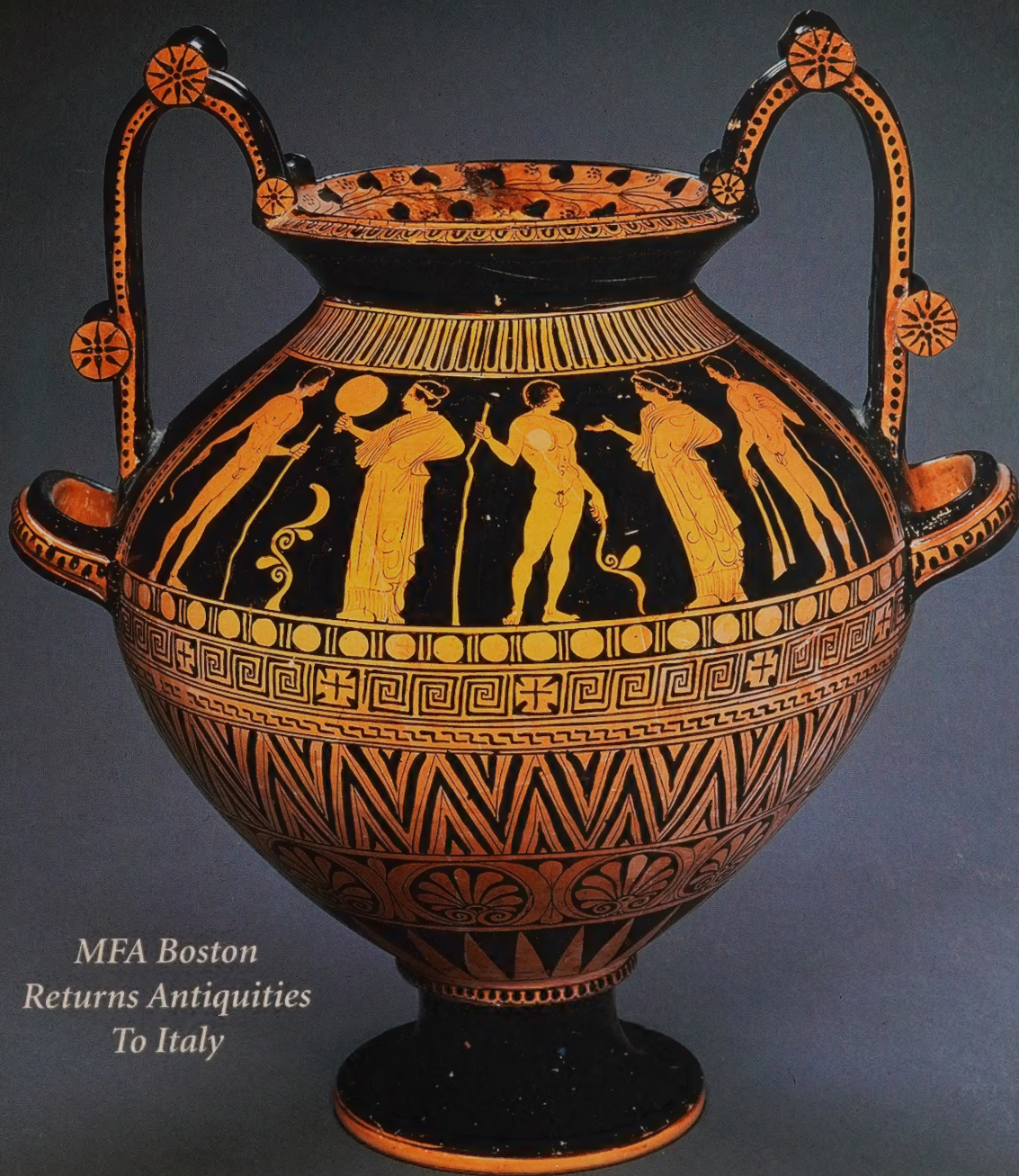


IFAR Journal

INTERNATIONAL FOUNDATION FOR ART RESEARCH

VOLUME 9 NUMBER 1 2006



*MFA Boston
Returns Antiquities
To Italy*

HENRY ADAMS ON THOMAS HART BENTON FAKES
KLIMT RESTITUTION — THE INSIDE STORY
DAMAGE TO MUNCH'S SCREAM

INCORPORATING **STOLEN ART ALERT**

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IFAR Journal

INTERNATIONAL FOUNDATION FOR ART RESEARCH

2 **LETTERS TO THE EDITOR**

4 **NEWS & UPDATES**

4 MFA Boston Cedes 13 Antiquities to Italy; Receives First Loan in Return

6 Conservators Studying Damage to Recovered Munch Paintings:
Damage to *The Scream* is Substantial

8 Hungarian Gold Train Case Settlement

10 Austria's Belvedere Loses *Another* Painting to Claimant

11 Russia's Hermitage Suffers Major Insider Theft

13 British Museum Exhibits 5 Drawings Once Looted from Feldmann Collection

16 **The Benton Fake Game**

Henry Adams

28 **The Recovery from Austria of Five Paintings by Gustav Klimt**

E. Randol Schoenberg

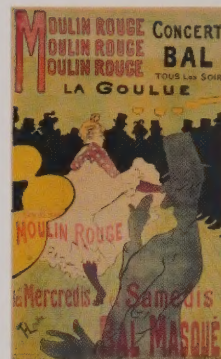
47 **STOLEN ART ALERT**

COVER: Two-handled vessel (*nestoris*). Greek, South Italian, Classical Period, late fifth century B.C. Artist: The Amykos Painter. Place of Manufacture: Lucania, Italy. Ceramic, Red Figure. Accession no. 1998.588. Returned by the Museum of Fine Arts, Boston to Italy. See story on p. 4. Photo: Museum of Fine Arts, Boston.

TO THE EDITOR

RE: "TOULOUSE-LAUTREC'S *MOULIN ROUGE: LA GOULUE*: LITHOGRAPH OR REPRODUCTION?"

(IFAR JOURNAL, VOL. 8, NO. 2, PP. 24-28)



I was pleased to see Charles B. Goldstein's recent article about Henri de Toulouse-Lautrec's poster *Moulin Rouge: La Goulue*. I applaud Mr. Goldstein's stated aim to "provoke further thought in the reader's mind about art terminology and definitions such as 'lithograph,' 'original print,' and 'reproduction.'"

However, I take exception with several of Mr. Goldstein's representations. The most troubling aspect of his article is the application of select twenty-first century definitions of originality to the process of postermaking in fin-de-siècle France. Mr. Goldstein does not explore studio practices, the discourse of the "original print" in the 1890s, or the actual production of posters, which took place in large commercial print shops, not artists' ateliers. Furthermore, Mr. Goldstein relies heavily on definitions and opinions supplied by Mel Hunter, a contemporary artist and author. Mr. Hunter's assertion that "the artist must fully create the image design on the plate, or the artist must transfer the image to

the stone himself and then print it lithographically to be called an original print or lithograph" is a statement of opinion, and one that many curators, artists, and master printers of today would dispute. In fact, throughout the history of printmaking, artists have worked with printers, craftsmen, and other specialists to realize their designs. As noted curator and art historian Richard Field wrote in an issue of *The Print Collector's Newsletter* devoted to the question of "originality," many original prints were collaborative, ranging "from the 15th-century woodcut through Dürer, Holbein, Bruegel, Titian, Raphael, Rubens, Van Dyke, the entire 18th century (especially Watteau), even Géricault, Toulouse-Lautrec, and Cézanne, to Picasso, Rouault, Paolozzi, and Warhol" (p. 27, May-June 1972). In the context of poster production in the 1890s, Mr. Hunter's modern-day definition does not apply.

I would also like to address Mr. Goldstein's discussion about Lautrec's involvement with the printing of the poster, and make

a clarification. As I explain in the exhibition catalogue, *Toulouse-Lautrec and Montmartre*, Lautrec made a range of preparatory drawings and sketches, one of which is nearly full size. Mr. Goldstein may have taken that to mean that there was a one-to-one correspondence between that drawing and the final image, which a chromist copied exactly. This is not true; the final design came together on the stone. Based on Lautrec's letters in which he states that he enjoyed working closely with the printer, the fact that it was his first lithograph, and a comment he made about some "printers' mistakes," I erred on the side of caution since there is no documentation of exactly what transpired that day. More precisely, I think it is likely that the artist worked side-by-side with the printer to translate his preparatory images to the stone. I did not mean that Lautrec had no involvement with working the stone, simply that a printer guided him. This was not an uncommon or controversial practice, as noted above. Frequently another specialist would do some or all of the lettering on a poster,

as occurred here: the text on the upper part is by Lautrec while the lettering below is by another hand (see Wolfgang Wittrock, *Toulouse-Lautrec: The Complete Prints*, 1985, catalogue entry pl, p. 756). This does not discount this lithograph as “original.”

Furthermore, Mr. Goldstein seems to have misread my statement that “Lautrec was aware of the high standard in poster design he had to meet” [emphasis added]. That is, Lautrec knew that like his artistic predecessor, Jules Chéret, he had to craft a powerful and alluring advertising message into a visual language that would stand out in the crowded streets of Paris and instantly communicate the brand of the Moulin Rouge dance hall. Mr. Goldstein leaps to the conclusion that “this would infer a high standard of quality control in printmaking by Toulouse-Lautrec” [emphasis added]. Not only would control of a print run of 3,000 (the estimated size of the edition) be impossible, it was not, in fact, part of Lautrec’s artistic agenda for this lithograph. Had Mr. Goldstein examined the lithograph in a study room or laboratory setting, he would have noted even more irregularities than those pointed out in his article. Lautrec was attempting to generate the greatest possible impact with his first poster, and that included bold, even

“sloppy” printing that signaled the unpolished nature of the venue advertised, the Moulin Rouge. The artist was not concerned with creating a *belle épreuve*, nor was he trying to demonstrate his mastery of traditional printing techniques: he was making a daring advertisement for the gaudiest, sexiest nightspot in town. A polished, highly finished image would have been incompatible with the message of the advertisement. This applies to his posters of the proletarian singer-songwriter Aristide Bruant as well, a point I explored in the catalogue (*Toulouse-Lautrec and Montmartre*, p. 92).

Finally, I would like to add a word about the issue of married sheets. As Mr. Goldstein points out, *Moulin Rouge: La Goulue* is printed on three sheets of paper. Each sheet of the composition would have been printed separately, then joined with the two other pieces to create a whole poster. Thus, in a sense, every complete poster of *Moulin Rouge* is composed of “married” sheets. Many surviving examples of this poster, however, do not have the top sheet, and some collectors have made modern reproductions in order to complete the image. In my telephone discussion with Mr. Goldstein, I noted that all three sheets in The Art Institute of Chicago’s example were printed in 1891, i.e., it is

not a marriage of original and modern reproduced sheets, as you find in some collections.

It is clear that Lautrec as well as his artistic contemporaries considered *Moulin Rouge: La Goulue* an important original work of art: Lautrec was invited to exhibit it at the avant-garde exhibitions Les XX in Brussels, the Association pour l’Art (Antwerp), and the Salon des Indépendants in Paris, among others.

While I welcome debate on the shifting understanding of “original” versus “reproductive” printmaking, I am disappointed that Mr. Goldstein did not nuance his discussion with an understanding of the context of Lautrec’s production, and that he presents a subjective twenty-first century definition by Mel Hunter as basis for judging the phenomenon of artistic postermaking in nineteenth-century France. A fuller understanding of Lautrec’s aims, working methods, and his epoch indicates that *Moulin Rouge: La Goulue* is not, as Mr. Goldstein presents, “a color poster reproduction printed lithographically after Lautrec’s image design,” but an original lithograph by Toulouse-Lautrec.

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“TOULOUSE-LAUTREC AND MONTMARTRE”

MFA BOSTON CEDES 13 ANTIQUITIES TO ITALY RECEIVES FIRST LOAN IN RETURN TALKS BETWEEN ITALY AND GETTY MUSEUM BREAK DOWN

After months of negotiations, Boston's Museum of Fine Arts signed an agreement on September 28th to transfer to Italy 13 antiquities from its collection. Speaking at a press conference in Rome, where the 13 objects were unveiled, Malcolm Rogers, the MFA's director, (Fig. 1) spoke of the museum's wish "to see the end of the illicit excavation and trade of antiquities" and added that the "partnership with the Italian government heralds an exciting new era of collaboration . . ." The MFA agreement follows a similar agreement between the Metropolitan Museum and Italy. Both agreements call for loans from Italy in exchange for the returned objects. In late November, the two museums received the first of those loans.

In recent years Italy has sought aggressively to reclaim antiquities it feels were taken out of the country illegally. A 1939 law (Law No.1089 of June 1, 1939) vests ownership of all newly found archaeological items with the state. Currently, a trial is taking place in Rome against the Getty Museum's former curator of antiquities, Marion True, and antiquities dealer, Robert Hecht, for conspiracy to acquire looted antiquities. Separately, Italy and the Getty Museum have been negotiating over the return of 52 objects in the Getty's collection that are claimed by Italy. In late November, as *IFAR Journal* went to press, talks reached an impasse, and the Getty unilaterally announced the return of 26 of the objects without an accompanying agreement.

The MFA talks with Italy were initiated by the MFA in November 2005, and were followed by meetings in Rome in May and June of this year. The MFA was one of the museum's whose antiquities collections were implicated in Italian court documents relating to the current antiquities trials in Rome. Bloomberg News reported in October 2005 that 22 objects from the MFA's collection were listed in the court documents as being either looted or smuggled from Italy. But neither the new agreement nor public statements by the MFA go so far as to say that the 13 objects were looted or smuggled, only that they "were acquired in good faith" and that subsequent evidence suggested that "their proper home" was Italy.



FIGURE 1. MFA Boston Director, Malcolm Rogers, Italian Minister of Culture, Francesco Rutelli, and Giuseppe Proietti of the Italian Ministry of Culture shake hands after signing agreement. (Photo: MFA Boston Website)

The returned objects include 11 ancient jars and vases (Fig. 2 and Journal cover), an early Roman marble relief (Fig. 3), and an over-life-size marble statue (Fig. 4) believed to be of Sabina, wife of the Roman emperor, Hadrian. A photo of the statue, which is 6 ½ feet high, was one of thousands of photographs of objects found by Italian police in the Geneva warehouse of Giacomo Medici, an antiquities dealer convicted in Italy in December 2004 for illicit trafficking in antiquities. His conviction is now being appealed.

COMPARISON WITH THE MET AGREEMENT

Like the agreement between Italy and the Metropolitan Museum signed on February 21 of this year, the MFA agreement calls for "significant" loans by Italy to the museum for exhibitions, although the MFA's agreement regarding loans is less specific than the Met's. On November 28, the MFA displayed its first loan: a 9-foot tall Roman marble statue of Eirene, the Goddess of Peace (Fig. 5). It will remain in the museum for three years,



FIGURE 2. The 11 vessels returned by the MFA Boston to Italy as displayed at a press conference in Rome on September 28. (Photo: MFA Boston Website)

until November 2009. The next day, the Metropolitan Museum displayed the first loan under its agreement: a sixth-century B.C. terra cotta Etruscan kylix.

In addition to specificity regarding loans, there are several differences between the two museum agreements. The MFA's agreement, for example, calls for the Boston museum to notify Italy before it acquires or borrows an Italian object; the Met agreement does not obligate the New York museum to do so. The Boston objects have already been returned to Italy, indeed were deaccessioned on September 21st and returned to Italy before the agreement was announced; the Met, however, will retain all but four of its transferred objects until at least January 2008, several months after the opening of the Met's new Greek and Roman galleries. (A group of silver objects being returned by the Met will remain at the museum until 2010.)

EXHIBITION IN ITALY

Italy put the MFA objects on public view for a couple of weeks almost immediately (October 10–29) at Rome's archaeological museum, the Museo Nazionale Romano. They will now be disbursed to various museums and sites. The Sabina will presumably go to Hadrian's villa, outside Rome.

— S.F.

TRANSFERRED BY THE MFA BOSTON TO ITALY, SEPTEMBER 2006



FIGURE 3. Triangular Support for a Candelabrum Shaft, Decorative Colonette, or Small Basin. Roman, possibly A.D. 20–60 Marble.

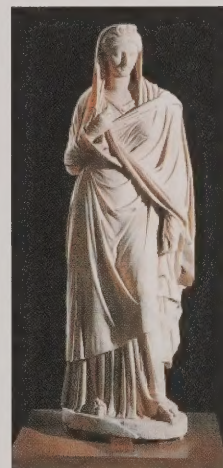


FIGURE 4. *Sabina*, Roman, Imperial Period, about A.D. 136, Marble. Height 79 1/2 inches.

LENT BY ITALY TO BOSTON, NOVEMBER 2006



FIGURE 5. *Eirene*, Roman, Imperial period, late first century B.C. to early first century A.D. Marble. Lent by the Republic of Italy to the MFA Boston, Nov. 2006–Nov. 2009.

CONSERVATORS STUDYING DAMAGE TO RECOVERED MUNCH PAINTINGS

DAMAGE TO *THE SCREAM* IS “SUBSTANTIAL”
MUSEUM’S DIRECTOR TELLS IFAR

The two-year saga of *The Scream* and *Madonna*, the Edvard Munch masterpieces that were stolen in a brazen daytime theft from the Munch Museum in Oslo in August 2004 and recovered this August, is not yet at an end.

The theft, the search for the paintings, the arrests and criminal trial that followed, and the recovery of the works on August 31, captured worldwide attention. The works sustained significant damage during the two years they were missing, and now have to be repaired before they can be put back on permanent display. The conservation process will take “more than a year – all in all,” the museum’s Acting Director Ingebjorg Ydstie told IFAR in mid November. The museum is currently “taking samples and doing different tests, using both internal and external expertise. The actual conservation work won’t start for at least another month.”

Serious as the damage is, however, it is not as bad as feared and rumored while the search was on. At one point (April 28, 2005), the Norwegian newspaper, *Dagbladet*, citing criminal sources, even reported that the works had been incinerated to destroy them as evidence.

PUBLIC GETS A WEEK’S PEEK

Normally, paintings in delicate and damaged condition would



FIGURE 1. Munch Museum photographs showing damage to the two recovered paintings (arrows added). Edvard Munch. *The Scream*, 1893. Tempera on cardboard. Copyright: Munch Museum / Munch Ellingsen Group / ARS-BONO 2006.

not be exhibited publicly for fear of causing further harm. But, for five days this fall, from September 27 to October 1, the Norwegian public was given the chance to view the paintings — two of the most iconic and valuable works by Norway’s most famous artist. The Munch Museum, with the concurrence of the local police and the cultural authorities in Oslo, agreed to exhibit them for a brief period in what it called “their present condition” in order to reas-

sure the public and satisfy what it described as “the great interest” in the works and in “their condition after the robbery,” and “the fact that it will take time before we can again exhibit them after repairs.”

To avoid further damage to the paintings, they were shown lying flat, not hung, in what a press release described as “specially-made acclimatized glass showcases.” Nearby, were related works from



FIGURE 2. Edvard Munch. *Madonna*, c. 1894–95. Oil on Canvas. Copyright: Munch Museum / Munch Ellingsen Group / ARS-BONO 2006.

the museum's collection, such as Munch's own diary notes about the paintings, a series of lithographs on the *Madonna* motif, including rare hand-colored prints, drawings of both paintings, and a pastel version of *The Scream*, as well as two related works, *Anxiety* and *Despair*. What was clearly visible to museum visitors, and in photographs (Figs. 1 & 2) sent by the museum to IFAR, was the damage to the paintings: severe, and only in part, repairable.

THE DAMAGE

The two works sustained different types of damage. The

Madonna (Fig.1), an oil on canvas painted c.1894-95, suffered several tears — holes — on the right side of the painting, including two holes in the woman's left arm. There is also a tear on the upper left part of the painting, where the canvas curves around the stretcher. The stretcher itself was broken in two places — probably when the thieves took the painting out of the museum's frame. So the canvas, Ms. Ydstie said, "will have to be removed from the old stretcher and put on a new one." The repair work on the *Madonna* "will be time consuming," she added, "but the museum is confident that the painting can be restored."

The Scream (Fig. 2), on the other hand, tempera on cardboard painted in 1893, sustained moisture damage as well as small tears and scratches. The moisture damage, Ms. Ydstie told IFAR, is "substantial" and "very visible, like a shadow on the painting." It is not yet clear whether the moisture damage — which is on the front lower left side of the painting (not the back) — is from water or another fluid. "Some of the pigment is damaged forever; it cannot be mended, Ms. Ydstie noted, "without adding something new," but the museum will certainly *not* add new pigments from 2006-2007." What will be done is a serious decision and will only be made after analyzing the tests and having "debates between conservators and art historians." Under the circumstances, it is fortunate, Ms. Ydstie added, that the moisture damage "is not in the sky because, there the red color is very vital to the expressionist feeling of the painting, or in the face, which is so much a part of the painting."

"The *Madonna* . . . suffered several tears – holes – on the right side of the painting, including two holes in the madonna's left arm."

THE THEFT

The works were stolen from the museum on a Sunday morning in August by two masked men who brandished a gun and forced unarmed guards to the floor in front of dozens of stunned museum visitors (see story *IFAR Journal*, Vol. 7, no. 2, pp. 4–7). In what might be described as a "slash and grab," the thieves yanked the paintings from the wall and treated them with so little care that at one point, witnesses said, they banged one of the paintings against the floor to dislodge the frame. The culprits ran out to a waiting van driven by a third man. The entire episode happened so quickly that by

"The Scream . . . sustained moisture damage as well as small tears. . . . Some of the pigment is damaged forever . . ."

the time police arrived, the thieves were well on their way to their escape.

The ease and speed of the theft, especially considering the fame of the works and the fact that another version of *The Scream* had been stolen in 1994 from the nearby Oslo Museum, exposed lax museum security and generated a public outcry, leading to the museum's closure for almost a year for security upgrades.

An international police investigation, including an offer of a reward of 2 million Norwegian kroner (approximately \$300,000 USD) led to the capture and trial of six men, all Norwegian, three of whom were found guilty in May of this year and sentenced to prison terms. But at the end of the trial, the two paintings were still missing.

Then, on August 31st, police announced at a news conference

that the paintings had been recovered. Authorities would *not* reveal, however, where the works were found, and they have repeatedly denied that the recovery was the result of a deal with the convicted criminals in which their sentences were reduced in exchange for information.

ANOTHER TRIAL

There will be another trial — an appeal — in February 2007. The museum is preparing condition reports on the two paintings for the police in conjunction with the trial. As the works had not yet been recovered, their condition could not be considered for the original trial in May.

— S.F.

HUNGARIAN GOLD TRAIN CASE SETTLEMENT

R*osner, et al., v. United States of America*, 231 F.Supp2d 1202 (S.D. Florida) 2002, better known as the "Hungarian Gold Train Case," was settled September 30, 2005. A subsequent April 2006 ruling elaborated on the Settlement. The class action lawsuit was filed in federal court in Florida in May, 2001 on behalf of Hungarian Jewish survivors of the Holocaust. In a unique twist, the named defendant was the United States.

The case involved property confiscated from Hungarian Jews by the pro-Nazi Hungarian government, which was loaded onto a freight train bound for Germany. The train's contents — gold and silver jewelry, Jewish ritual objects, diamonds, artworks, sterling silver, china and Oriental rugs — was valued in the many millions of dollars. In May, 1945 the train was seized near Werfen, Austria by forces of the U.S. Army and eventually was routed to the U.S. Property Control Division in Salzburg, Austria.¹

Although some of the owners of the property may have been identifiable, U.S. officials designated it "enemy property."² Much of the property was then requisitioned by

high-ranking U.S. officers, some was simply stolen, and much was brought to New York, where it was auctioned at Parke Bernet in 1948, with the proceeds allegedly going to support refugee groups.³

The facts of the Hungarian Gold Train case were first disclosed by the Presidential Advisory Commission on Holocaust Assets in the U.S. The disclosure led to the class action lawsuit filed on behalf of more than three thousand Hungarian Holocaust survivors against the U.S. government. The suit sought an accounting of the contents of the Gold Train still in government hands, as well as damages for the Hungarian survivors. The Justice Department moved to dismiss the suit on the basis of the statute of limitations, the sovereign immunity of the U.S.,

¹ *Plunder and Restitution: The U.S. and Holocaust Victims' Assets, Findings and Recommendations of the Presidential Advisory Commission on Holocaust Assets in the United States* (2000), SR 113–117.

² *Id.* at SR-114.

³ *Id.* at SR-115–116; Siobhan Morrissey, "Train of Heartbreak," *ABA Journal*, March 2004, at 18.

and the inappropriateness of the federal court as a proper forum. These were exactly the same defenses raised by foreign governments when Ambassador Stuart E. Eizenstat, Under Secretary of State in the Clinton Administration in charge of Holocaust-Era issues, intervened in litigation and negotiated settlements with France, Austria, and Germany.⁴ Judge Patricia Seitz rejected the government's defenses and ordered the parties to begin the discovery process. The case played out poorly for the U.S. in the press.

Under the terms of the settlement approved by Judge Seitz in 2005, the U.S. denied wrong-doing, but issued a statement acknowledging that the property was "either abandoned, retained or damaged beyond repair," and agreed to pay \$ 25.5 million into a Settlement Fund. Of

this, \$500,000 will be shared, according to the April 2006 ruling, by two cultural institutions — the U.S. Holocaust Memorial Museum in Washington, D.C. and Yad V'Shem, Israel's Holocaust remembrance museum — to document the history of the Hungarian Gold Train and the looting of the Hungarian Jewish community during WWII. Court-approved attorney fees will be deducted from the Fund, and the balance — approximately \$21 million — will be distributed worldwide to welfare organizations and used to provide social service programs for the benefit of eligible Jewish Hungarian Nazi victims. The Settlement provides for modest compensation for the panel of Experts designated in the Settlement Agreement.⁵

The Settlement provides a felicitous conclusion to what would have been a difficult litigation. The plaintiffs would have had to prove ownership of the specific items on the inventory of the Gold Train and that those specific items were taken by officials or employees of the United States.

— LUCILLE A. ROUSSIN*

⁴ Stuart E. Eizenstat, "The Unfinished Business of the Unfinished Business of World War II," "Holocaust Restitution," ed. Michael Bazylar and Roger P. Alford (N.Y.U. Press, 2006), pp. 297 and 312.

⁵ *Rosner, et al., v. United States*, Order Granting Joint Motion for Order in Settlement Implementation. Case No. 03-1859-CIV-SEITZ, U.S.D.C., Southern District of Florida, December 22, 2005. A complete file on the case and all documents filed, including the settlement distribution is available at: <http://www.hagens-berman.com/files/summary-of-gold-train-documents1067712249971.html>. See also, <http://www.hungariangoldtrain.org>.

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AUSTRIA'S BELVEDERE LOSES ANOTHER PAINTING TO CLAIMANT

**MAHLER HEIR WILL GET MUNCH WORK
TELLS IFAR SHE IS "OVERWHELMED" WITH JOY**

After a 60-year restitution battle waged by her family, the government of Austria has decided to award Marina Mahler, the granddaughter of composer Gustav Mahler and his wife, Alma, a Munch painting that has resided in Austria's Gallery Belvedere since 1937. Alma had lent the painting to the museum in 1937, a year before she fled from the Nazis, and had tried to get it back until her death, in 1964.

"I was overwhelmed on one and the same day [November 8] by two immense joys," Marina Mahler told IFAR. "The joy of the result of the American elections and the joy of my grandmother's painting being returned to me by the Austrian government! What an amazing day never to be forgotten. I could then celebrate in a personal way for me and also for the world in general . . . and I drank and toasted both occurrences that evening with great happiness and a huge sense of peace." In a press release, she described the government decision as "an important step towards the restoration of the special bond between my family and Austria."

When asked by IFAR when she will receive the painting, which she described as "among the most beautiful I have ever seen," Marina answered: "I do not know the exact timing . . . but it will certainly be quite soon, as soon as the technicalities have been accomplished."

ALMA MAHLER

Alma Mahler (1879–1964) is one of the most colorful figures of the early 20th century. The daughter of a Viennese painter, Emil Jakob Schindler, Alma's lovers and husbands read like a Who's Who of the Viennese art world. Her first husband, Mahler, twenty years her senior, died in 1911. A passionate, obsessive affair with Oskar Kokoschka inspired his famous painting of embracing lovers, *The Tempest* (1914, Kunstmuseum, Basel). Her second marriage in 1915 to the Bauhaus architect Walter Gropius, with whom she had an affair while still married



FIGURE 1. Edvard Munch. *Summer Night on the Beach*, 1902. Oil on Canvas. Restituted by Austria to Marina Mahler November 2006. Photo: Erich Lessing/Art Resource, NY.

to Mahler, ended in divorce. Her third husband was the writer Franz Werfel, author of the *Song of Bernadette*.

Summer Night on the Beach (Fig. 1) is a 1902 oil painting by Edvard Munch (see other Munch news story, p.4 this issue *IFAR Journal*). In 1916, on the occasion of the birth of her daughter Manon, with Gropius, the painting was given to Alma by their friend and art dealer, Reininghaus, who, when Gropius asked if he might purchase the work for Alma because she loved it, replied, "No, I will send it myself to her as my gift." Manon died young, of Polio, and as a result, the painting took on even greater significance for Alma.

In 1937, by which time she was married to Franz Werfel, Alma lent the painting along with two others to the Austrian National Gallery. The next year, after Austria was annexed by Germany, Alma and Werfel, who was Jewish, fled the country, eventually coming to the United States. During the war, Alma's step-father, Carl Moll, a Nazi,

retrieved the work from the Belvedere without Alma's knowledge or permission and sold it back to the museum for a small sum. When Alma later tried to reclaim the work, that sale was cited as the reason for the government's refusal.

After the war, Alma tried to recover the painting. Otto Kallir, a specialist in Austrian Expressionist art and founder of the Galerie St. Etienne in New York, assisted her, acting as intermediary with the Austrian museum authorities. The legal case went back and forth. At one point in the 1950s, the Director of the Austrian Gallery agreed to return the Munch to Alma, but later reneged when a court ruling went against Alma.

The case seemed lost until a new Austrian Restitution law was passed in 1998. It was under the same 1998 law that an Austrian arbitration panel recently decided to award five paintings by Gustav Klimt, also in the Belvedere, to the Bloch-Bauer heirs after a long legal battle (see Klimt article this issue *IFAR Journal*).

Jane Kallir, granddaughter of Otto and Co-director of the Galerie St. Etienne, gave Marina Mahler the gallery's files on Alma Mahler's case. "It we hadn't kept this material," Ms. Kallir told IFAR, "a lot of critical records would have been lost."

Armed with those records, Marina Mahler filed a claim with the Austrian government under the 1998 law. Although the Art Restitution Commission established under the law, agreed that, on historical and moral grounds, the painting should be returned, the claim was denied because an Austrian Court had already dealt with the matter in 1953.

But an amended restitution law was passed in 2001. The recent decision by Elisabeth Gehrer, Austria's Minister of Culture, to return the Munch painting was based on the 2001 law, which, according to Marina's attorneys, gives "a central role to the idea that remaining files leading to cases of 'extreme injustice' need to be resolved." The Mahler claim, was one such injustice, which is now reversed.

— S.F.

RUSSIA'S HERMITAGE SUFFERS MAJOR INSIDER THEFT OBJECTS SLOWLY BEING RETURNED

The bizarre details surrounding the theft of 221 decorative objects from the reserve collection of the Hermitage Museum in Russia are slowly coming to light, and many may never be known. The objects, said to be worth several million U.S. dollars, include icons, watches, silverware, jewelry, enamel and gilded decorative jars, and other objects. (See Stolen Art Alert, this issue, *IFAR Journal*). But while the investigation is going on, many of the stolen items have already been recovered —31 as of press time.

The theft, which apparently took place over a period of years, only came to light this summer after a routine museum inventory. In the wake of the public announcement in July, have come public outrage, embarrassment by museum professionals, the creation of a government commission to analyze the country's museums, calls by the Hermitage's director, Mikhail Piotrovsky, for more money to improve security, and a police investigation.

"At the heart of the story is the ultimate insider theft."

At the heart of the story is the ultimate insider theft. Its center is a deceased curator, Larisa Zavadskaya, who worked at the museum in St. Petersburg for about 30 years, in the very department from which the objects were stolen. A diabetic, whose need for insulin and small salary is said by her husband to have triggered the chain of events, Zavadskaya died as the investigation was beginning, apparently after a collapse and heart attack.

Three people were initially detained in the investigation, but two have since been released. The remaining person is Nikolai Zavadsky, the husband of the deceased curator, whose lawyer revealed in August that his client had admitted to pawing the stolen works. Indeed, the 31st

recovered object was a 19th century pocket watch by the Swiss maker, Paul Matthey Doret, which had been brought to a pawnshop by Zavadsky and bought by an unsuspecting purchaser, from whom the police confiscated it on November 10th.

Zavadsky's son was also detained, but was released after he promised not to leave St. Petersburg. The third suspect, a university lecturer, had been detained since August, but charges were later dropped.

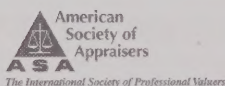
The returned works have materialized in varying fashion. An icon was found in a trash bin by police after receiving an anonymous tip. Another icon was found in a train station locker, also after an anonymous police tip. A Breguet watch turned up when a collector who had purchased it in November 2005 approached a federal agency to find

out whether it matched a watch on the Hermitage list. A St. Petersburg dealer turned in an object for which he had reportedly paid 20,000 rubles. Other objects were also turned in anonymously; one icon was simply left outside a police station.

Although the Hermitage does not have photos of every item, the museum put dozens of images on its Website: http://www.hermitagemuseum.org/html_En/11/2006/hm11_1_167.html, replete with detailed descriptions, including dimensions and inscriptions, of every stolen item. Anyone who knows the whereabouts of any of these items is encouraged to contact the authorities, or the Art Loss Register or IFAR.

— S.F.

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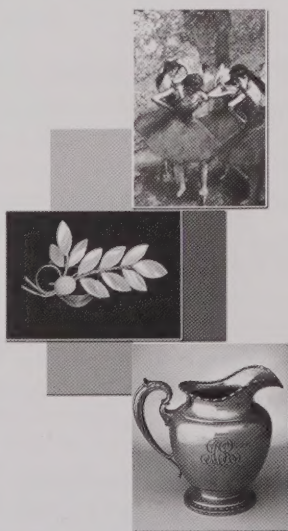
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BRITISH MUSEUM EXHIBITS 5 DRAWINGS ONCE LOOTED FROM FELDMANN COLLECTION

**INCLUDES DRAWING IFAR HELPED RESTITUTE
FAMILY MAKES CLAIM ON 3 OTHER DRAWINGS AT THE COURTAULD**

In November 2004, IFAR was instrumental in helping to restitute an Old Master drawing once attributed to Rembrandt that had been looted in World War II from the collection of Dr. Arthur Feldmann. (Fig. 1) This year, the drawing was donated by Feldmann's heirs to the British Museum, which, this Fall, exhibited it along with four other Old Master drawings that had entered the museum's collection in the 1940's but were claimed in 2002 by the Feldmann family. Although the museum acknowledged that the four other drawings had been "wrongfully seized by the Gestapo," British law, which does not permit deaccessioning, prevented the museum from returning them to the family. In April 2006, the British Spoliation Advisory Panel recommended that Feldmann's heirs receive compensation for the drawings from the government, and that the drawings remain in the museum permanently.

Arthur Feldmann, a lawyer in Brno, Czechoslovakia, escaped the Nazis in 1939 and died in 1941 (see story *IFAR Journal*, vol 7, no.2). Before the War, he amassed a major collection of approximately 750 Old Master drawings. In March 1939, the Nazis invaded Brno and confiscated the collection. The Feldmanns were arrested and their possessions confiscated and later dispersed. In the last few years, Feldmann's grandson, Uri Peled, who lives in Israel, actively researched the collection and made a claim on four drawings — by Niccolo dell'Abbate, Martin Schmidt, Nicholas Blakey, and circle of Martin Schongauer — in the British Museum that were formerly in his grandfather's collection. It was these drawings that were the subject of the recent financial settlement (£175,000).

In 2002, not long after the claim against the British Museum was made public, IFAR was approached by an American professor to research the provenance of an Old Master drawing of *The Liberation of St. Peter* that she had inherited and later suspected might have been looted during World War II. She asked us to help her restitute the work if we found that had been the case. The work had been purchased by her father in Amsterdam as a



FIGURE 1. *The Liberation of St. Peter*. Pen and bistre on paper, formerly attributed to Rembrandt, now to Govaert Flink. Drawing restituted to Feldmann family with IFAR's help in November 2004. Donated to the British Museum in 2006.



FIGURE 2. *Dog Lying Down*. Frans van Mieris. Chalk and watercolor on paper in Courtauld Collection claimed by Feldmann family. Photo: Courtauld Institute of Art Gallery, London.



FIGURE 3. *Architectural Capriccio*. Giuseppe Galli da Bibiena. Pen and ink & watercolor on paper in Courtauld Collection claimed by Feldmann family. Photo: Courtauld Institute of Art Gallery, London.



FIGURE 4. *Lion*, attributed to Carl Borromaus Andreas Ruthart. Watercolor and gouache on paper in the Courtauld Collection claimed by Feldmann family. Photo: Courtauld Institute of Art Gallery, London.

Rembrandt thirty years before. When IFAR determined that the work had, in fact, been looted from the Feldmann family, we facilitated the restitution, working with the Feldmann's representatives, the Commission for Looted Art in Europe. The American professor asked for no monetary recompense; her only request was that her name be kept confidential.

In the course of its research, IFAR determined that the work was no longer a Rembrandt. After it was given to the British Museum by the Feldmann family, it was re-attributed by Martin Royalton-Kisch, the museum's Senior Curator of Drawings, to Rembrandt's pupil, Govaert Flinck.

This Fall, from October until November 16, the four drawings that had been in the British Museum since the 1940s were put on exhibit "in memory of Dr. Arthur Feldmann." They were joined by a fifth drawing, *The Liberation of St. Peter*, which, the museum noted, was presented to it by the Feldmann family after it had been "returned to them as a spontaneous gesture of good will by a private collector."

At the time of the family's settlement with the British Museum, Uri Peled told IFAR:

As far as I understand, the British are considering an amendment to the law enabling the restitution of looted objects of art by the Nazis. We wanted the drawings to remain with the important and renowned British Museum in spite of and regardless of the outcome of the amended law.

This is to honor our grandfather and for the story these drawings tell.

But there was another reason, not less important. This is in a way our thanks to the British people, who enabled my parents; my then 2-year-old sister; and a couple of other members of our family to find refuge from the Nazis. If not for the British people, my younger sister and I wouldn't be here today, let alone have found the drawings. So in a way, a circle is closed.

THE COURTAULD CLAIM

While the Feldmann family's claim against one British museum was drawing to a close, they made a claim in February 2006 against another British museum, the Courtauld, for three Old Master drawings in its collection. The works, attributed to Frans van Mieris the Elder (Fig. 2), Giuseppe Galli Bibiena (Fig. 3) and Carl Borromaus Andreas Ruthart (Fig. 4), entered the Courtauld's collection in 1952 as part of the Witt bequest of over 3,000 drawings. Witt purchased the three drawings in question from the dealer Colnaghi, who acquired them at a Sotheby's sale just after the War, in October 1946. Interestingly, this was the same sale where the "IFAR" *St. Peter* was sold, as were three of the four drawings in the British Museum that were looted from the Feldmann collection. As *IFAR Journal* went to press, the claim against the Courtauld was still outstanding and the museum was working with the Feldmann heirs to "achieve a resolution."

— S.F.



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THE BENTON FAKE GAME

HENRY ADAMS*

The making of a forgery is merely one part of a larger web of deceit and deception. For many years I have been involved in distinguishing authentic from fake works by the American artist, Thomas Hart Benton (1889-1975), a leading exponent of the figurative Regionalist school of painting of the 1930s and '40s. In the 1950's and '60s, Benton's work was eclipsed by the Abstract Expressionists, including his pupil, Jackson Pollock. Little appreciated in major art circles, he retreated to Kansas City and devoted himself to teaching and painting. But in the 1970s his art came back into

* Henry Adams, Ph.D., is Professor of Art History and Art, Case Western Reserve University, and the author of numerous publications on American Art, including: *Thomas Hart Benton: An American Original*, New York: Alfred Knopf, 1989 and *Thomas Hart Benton: Drawing from Life*, New York and Seattle: Abbeville Press, 1990. In 1989 he produced a PBS documentary on Thomas Hart Benton in partnership with filmmaker Ken Burns. A version of this article was given as a talk at the Annual Meeting of the College Art Association in February 2006.

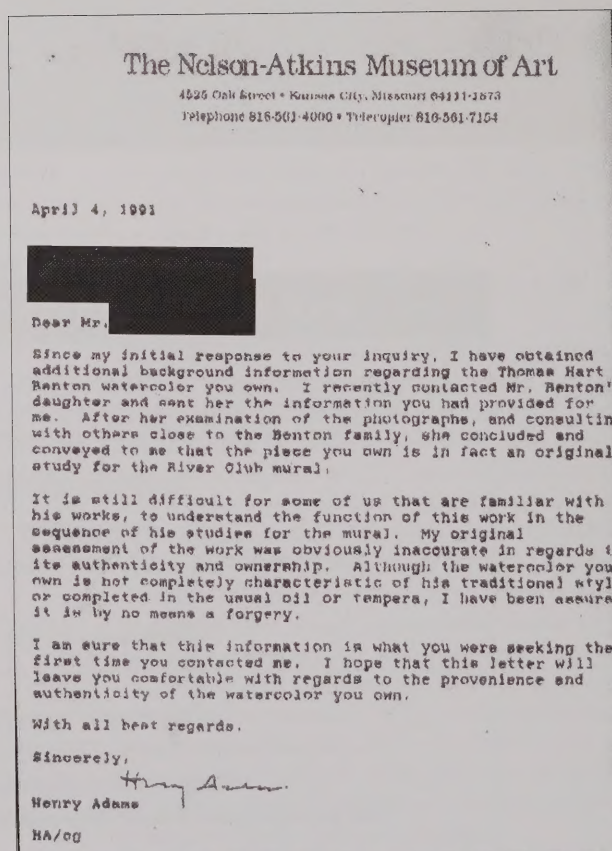


FIGURE 1. Forged letter with signature authenticating a work by Thomas Hart Benton.



FIGURE 2. Watercolor with Benton-inspired motifs, submitted to the author as a work by Benton and referenced in the letter shown in Figure 1.

favor, and prices escalated. With escalating prices come fakes, and Benton fakes began to surface in quantity soon after his death in 1975. The problem was well recognized by the 1980s, when seven Benton fakes were submitted to IFAR's Art Authentication Research Service (see discussion below) and publicized by IFAR's then Executive Director, Bonnie Burnham.

But the problem did not stop then, and in the following article, I will discuss some of the deceptive practices regarding Benton and set them in context of a broader discussion of Benton's artistic practices, connoisseurship and fakery.

THE FORGED LETTER

On June 21, 1991, Sotheby's called me at the Nelson-Atkins Museum of Art, where I was then curator, asking me why

I had changed my mind about a painting by Thomas Hart Benton. They were referring to a letter they had just received (Fig.1) declaring that, while I had previously questioned the piece, my doubts had disappeared, and I now believed it to be authentic. It also stated that I had contacted Benton's daughter Jessie, who was also confident of the painting's authenticity. When I expressed bewilderment, they faxed a copy of the letter to me. I examined it, and it was clear that I had never written the letter: it was a forgery.¹

A *doppelganger* was pretending to be me, and it felt

odd to know that my identity was something fluid, to be freely borrowed by others for their own financial gain. The incident shows the lengths to which people will go to pass off forgeries as real. But in this case, the deception — the forged letter — was only one part of a long chain of apparently dishonest activities.

The painting in question (Fig. 2) was a watercolor that repeated motifs from, but was not an exact replica of Benton's mural for the River Club in Kansas City.² The watercolor originally surfaced at a small Midwestern auction house in the late 1970s, a few years after Benton's death, and was purchased by a Kansas City art dealer for a modest price. The dealer sold

¹ The date of the episode, June 21, 1991, is provided by the fax cover sheet. Later that day I sent faxes reporting the episode to my wife Marianne Berardi, who was then director of the Albrecht-Kemper Museum in St. Joseph, Missouri, as well as to the Nelson-Atkins Museum's attorney.

² The mural, dated 1956, is known by two names: "Trading at Westport Landing" and "Old Kansas City."

the work to Robert McDonnell, the head of a large Kansas City engineering firm, who had been one of Benton's drinking buddies and owned an important painting by Benton, *Wheat*, which is reproduced in all the major books on Benton.³ Thus, the watercolor quickly acquired an impressive provenance.

McDonnell's son later inherited the watercolor, but when he decided to sell it, a Kansas City art dealer, Anne Constable, now deceased, who had been Benton's next-door neighbor, told him she thought it was not authentic. In fact, many passages in the painting were weak — notably the clumsy plume of smoke that rises from the riverboat in the distance.

Shortly afterward, in 1988, the painting was allegedly stolen from the McDonnell residence. According to an account in the *Kansas*

City Times,⁴ the thieves also took a color photograph of Benton's painting *Persephone*, which the artist had autographed, and two other paintings of minor interest, but nothing else in the house was touched.

Three years later Butterfield & Butterfield auctioneers in Los Angeles sent me photographs of this same watercolor, which had just been offered to them.⁵ I responded saying that, not only did I have questions about its authenticity, but that it had allegedly been stolen from a residence in Kansas City in 1988. They declined to handle the work.

The next month I talked on the phone with a West Coast attorney

He then sent me photographs of it.⁶ I responded in writing, on Nelson-Atkins Museum letterhead, stating that I did not think the painting was authentic.⁷ Four months later, the letter that I described above (Fig. 1), with a photocopied museum letterhead, my forged signature, and typewritten words changing my negative assessment of the painting into a positive, was faxed to Sotheby's.⁸

In my opinion, at *least* four probable crimes took place:

- The creation of the fake painting and then misrepresenting it as a work by Benton;
- The disappearance of the work from the McDonnell home — purportedly a case of theft;

"I had progressed from being a provider of information about Benton to an arbiter of the authenticity of paintings by him, with all the hazards that role implies."

who explained that he owned the watercolor. When I mentioned the alleged theft and asked where he had obtained the work, he indicated that he had obtained it as collateral for an unpaid debt.

- The forging of the letter;
- Sending the letter across state lines — wire fraud.

³ *Wheat*, 1967, now in the Smithsonian American Art Museum, Washington, D.C., is reproduced by Matthew Baigell, *Thomas Hart Benton*, Harry N. Abrams, Inc., Publishers, New York, 1974, plate 218, as well as in my book *Thomas Hart Benton: An American Original*, p. 342. Originally, Benton included a panoramic landscape at the top of the composition, but he cut this section off to make it a freestanding painting of its own. This top section, now titled *Wyoming Landscape*, is reproduced in Douglas Dreishpoon, *Benton's America: Works on Paper and Selected Paintings*, Hirsch & Adler Galleries, New York, January 19 to March 2, 1991, plate 30, catalogue 91.

⁴ Tom Jackman, "Benton painting taken in burglary," *Kansas City Times*, February 19, 1988, p. 1. The article states: "The most recent appraisal of the study put its value at \$46,000. In addition to the autographed photo, two other paintings were stolen, but nothing else in the house was touched. Sgt. Bob Watts of the Metro Patrol burglary unit said the burglary occurred between 5:30 p.m. and 8:45 p.m. Monday. The burglars entered the house through an unlocked door, Watts said.

Art burglaries are rare, Watts said, and the fact that only the paintings and photo were stolen 'seems to indicate they went there for the specific purpose of stealing art.' The owner of the paintings, who asked not to be identified, said he thought he scared the burglars away when he drove up to the house Monday night. He said there were other valuable works that could have been stolen and that he fears the thieves may try to return."

⁵ The letter from Butterfield, dated January 3, 1991, is in my possession.

⁶ His letter to me, dated February 17, 1991, is also in my possession.

⁷ My response was sent on February 17, 1991.

⁸ The forged letter is dated April 4, 1991, but that may or may not be the date when it was written. It was faxed to Sotheby's on June 21, 1991, the date that Sotheby's contacted me.

⁹ I reported the incident to an F.B.I. agent who came to my office at the Nelson-Atkins Museum. He told me that he sent a report to the Los Angeles office of the F.B.I. on July 15, 1991. That was the last I heard of the matter.

Quite possibly other crimes were committed as well. For example, I don't know how the fake transferred hands.⁹

Honorable people can easily be pulled into this web of unsavory activities. The Kansas City art dealer who purchased the painting at auction, for example, probably sincerely believed that it was authentic.

BENTON FAKES

I became involved in the issue of Benton fakes by accident. In 1989 I wrote a biography of Benton and staged a major traveling exhibition of his work, which coincided with the centennial of his birth. The book involved new research, and Christie's and Sotheby's began to send me photographs of Benton paintings so that I could date them and identify their subject matter. Because of my knowledge of Benton's wanderings, I was often able to do so quite precisely. For example, I would know that a sketch of a riverboat portrayed the *Tennessee Belle*, which Benton sketched at Red River Landing, Louisiana, in 1928; or that a sketch of a rodeo was probably made in Saratoga, Wyoming in 1930; or that a sketch of a corral was probably made in 1939, when Benton accompanied Colonel Graham of the U.S. cavalry on a horse-buying expedition through Nebraska, the Dakotas, Wyoming and Montana.

Rather quickly, however, it became apparent that some of the pieces I examined weren't right. While

many were authentic, some were obviously fake. In some cases, however, I was not sure. So without really intending it, I found that I had progressed from being a provider of information about Benton to an arbiter of the authenticity of paintings by him, with all the hazards that role implies. What is more, during the period of a few years, the value of Benton paintings soared (they went up about 400% within a year of the traveling exhibition), with the

"Fully half the works that have been brought to me for authentication were forgeries of one kind or another."

result that increasingly large sums of money were at stake. It soon became apparent that I needed to devise criteria for distinguishing originals from forgeries.

To be sure, the problems did not involve major Benton masterpieces. The difficult cases were the minor works, the small sketches, the working studies, or the pieces from poorly documented phases of Benton's career. Cumulatively, however, study pieces of this sort make a great difference to our understanding of an artist, since they reveal the artist's working process.

In some cases, provenance helps resolve these questions, but Benton

paintings can turn up almost anywhere. A few years ago, for example, I was contacted by the owner of what turned out to be an authentic Benton oil sketch from 1927, acquired at a flea market in New Jersey for only five dollars.¹⁰ By the same token, Benton fakes are extremely common. Fully half the works that have been brought to me for authentication were forgeries of one kind or another. Some of these forgeries carried an impressive provenance, as was the case with the McDonnell forgery, already discussed.

THE IFAR "BENTONS"

The problem of Benton fakes was an issue by the early 1980s, a few years after the artist's death. As noted above, IFAR published an article in 1983 describing seven works, purportedly by Benton, that had been submitted to its Authentication Research Service. All turned out to be fake.¹¹

Three were copies of well-known works by Benton, such as *Missouri Spring* or *Plantation Road*, but they had obvious weaknesses in execution. Two combined works by Benton in a stylistic mishmash: one, "Leaving Home" (Fig. 3A), mixed Benton's *The Boy* of 1950 (Fig. 3B) with his *Wreck of the Ole* '97 of 1945 (Fig. 3C); another, "The

¹⁰ I was contacted about this painting by an owner in Maspeth, New York, examined it, and wrote a letter expressing my belief in its authenticity on January 8, 1995.

¹¹ See Bonnie Burnham, "Thomas Hart Benton: A New Assault," *Art Research News*, The International Foundation for Art Research, vol. 2, no. 2, 1983, pp. 11–14.



FIGURE 3A. “Leaving Home” – Watercolor signed “Benton” submitted to IFAR in 1982 and determined to be a fake — a pastiche of Figs. 3B and 3C



FIGURE 3B. Thomas Hart Benton, *The Boy*, 1950. Tempera. Private Collection. Art © T.H. Benton and R.P. Benton Testamentary Trusts/UMB Bank Trustee/Licensed by VAGA, New York, NY.



FIGURE 3C. Thomas Hart Benton, *Wreck of the Ole '97*, 1943, egg tempera on gessoed masonite. Coll. Hunter Museum of American Art. ©T.H. Benton and R.P. Benton Testamentary Trusts/UMB Bank Trustee/Licensed by VAGA, New York, NY.

“During the period of a few years, the value of Benton paintings soared . . .”

Cornfield” (Fig. 4), was a pastiche of Benton’s *The Homestead* of 1934 and his *Missouri Landscape* of 1956. Pastiche generally look incongruous and weak at the seams, where the two designs are pieced together. Two of the IFAR paintings bore Benton’s signature but had little stylistic relationship to his work: scenes of haying and of horses plowing a field. Several were accompanied by spurious documentation. The copy of Benton’s *Missouri Spring* — called “Missouri

Flood” in the IFAR version — had a photo certificate supposedly in Benton’s handwriting, but a handwriting expert consulted by IFAR declared it to be a forgery. The copy of *Georgia Cotton Pickers* was accompanied by a letter from Mr. A. L. McDaris of Missouri stating that he had inherited the watercolor from his father, to whom it had been given by Benton. But no such person could be located, and he most likely never existed. *Plowing the Field* bore a printed label

from the Kraushaar Gallery, New York, but the style of the label did not match any of the labels actually used by the gallery.

MARKETING BENTON FAKES

If one imagines art faking to be a business, making the fake is only the beginning. The next step is selling it. It is helpful to enlist someone who knew the artist. With Benton, for example,



FIGURE 4. “The Cornfield” — Watercolor signed “Benton ‘56” submitted to IFAR in 1982 and determined to be a fake.

a former acquaintance of his in Kansas City became very active in selling both authentic Benton works¹² and others that, in my opinion, are questionable, often to people who had been friends of the artist. Anne Constable, the Kansas City dealer who identified the McDonnell work as a fake, told me that on one occasion this particular Benton acquaintance had at least fifty alleged Bentons — oils and watercolors — in the trunk of his car.¹³ He reportedly received many of his paintings from an East Coast auctioneer and dealer, Jerry Schuster, who was twice convicted (1980 and 1990) of criminal acts, including selling art with fake signatures. In 2000,

¹²In April of 1990, a Beverly Hills gallery asked me to examine a large group of Benton drawings and oil paintings that they were handling on behalf of this Benton acquaintance. I expressed my opinion that the works were, in fact, authentic.

¹³I had many conversations with Anne Constable about Benton fakes around 1990.

Schuster was sued by the New York State Attorney General for selling counterfeit art on the Internet.¹⁴ The Benton acquaintance, however, has never been convicted of wrongdoing, and continues to deal actively in paintings by Benton.

Without a confederate, the easiest way to move a fake into the market is to slip a painting into a small auction or antique store and hope it will be discovered. But such works often sell for only modest sums. Consequently, to make money you need to produce a lot of fakes. The Benton catalogue raisonné has turned up an interesting instance of this: six faithful copies (Figs. 5A–F) of Benton’s painting *The Beach*, 1921 — two of them signed with Benton’s name,

¹⁴The suit was settled, and Schuster agreed to refund money to defrauded customers. See, Sharon Flescher, “New York State Settles Internet Art Fraud Suit,” *IFAR Journal*, Vol. 4, no. 1, 2001, pp. 2–3.

two initialed, and two unsigned. They range in size from 12 x 16 inches to 30 x 40 inches and are now scattered among collectors in England, Ireland, Florida, California, and Connecticut. Most were acquired in Dublin, Ireland.¹⁵

The copies must be quite recent, since for years *The Beach* belonged to Violet de Mazia, the mistress of Dr. Albert Barnes, who kept its existence hidden. It was not reproduced in color until it appeared in a Christie’s sale catalogue in May of 1989.¹⁶ All these copies must have been made after that date.

¹⁵Around May 10, 1991 I looked at one of these paintings, which belonged to a collector in Florida, in the conservation lab of the Cleveland Museum of Art. With infra-red reflectography I was able to see the underdrawing of the painting, which looked traced. The underdrawing of the authentic Benton paintings I have examined has a completely different character. Benton’s sketch technique is often remarkably free — in some cases, he would simply mark an x to indicate the placement of a background figure — and there are often changes between the underdrawing and the paint on the surface.

¹⁶*The Beach* was sold at Christie’s, New York, May 25, 1989, lot no. 348, and later sold at Sotheby’s, May 25, 1994, lot no. 128. I feel confident that the location of the painting was not known before the Christie’s sale since Violet de Mazia kept it hidden. A year or two before this sale, my research assistant Jenifer Hardin, who was attempting to trace the painting, spoke directly with Violet de Mazia, who told her that the Barnes Foundation did not own this painting. Rather coyly, de Mazia did not reveal its whereabouts — in her own collection. The painting had only been reproduced once before the Christie’s sale — in an article in an obscure movie magazine of the 1920s. See Thomas Craven, “Thomas H. Benton,” *Shadowland*, September 1921, p. 11. Craven’s article, however, cropped the painting on the left-hand side and did not reproduce it in color. Consequently, the maker of the six copies of the painting clearly had access to the reproduction in the Christie’s catalogue. *The Beach* is now in a private collection in Palm Beach and has been published in an article on the owner’s home in *Architectural Digest*. See Kim Shady, “Georgian Elan in Palm Beach: A Couple’s Art Collection Sets the Tone for a Florida Interior,”



FIGURES 5A-F. Six copies of Thomas Hart Benton's *The Beach* that were submitted by various owners to the Benton catalogue raisonné review committee.

Several factors made Benton appealing to forgers, particularly in the years just after his death:

- He had a very recognizable style;
- His work brought good prices, but not so high that people felt it necessary to bring in experts;
- His work appealed to people who "didn't know much about art, but knew what they liked."

When Benton was alive it was difficult to pass off forgeries, but as soon as he was dead, it became quite easy.

Benton had a long career. His earliest surviving work dates from when he was nine years old and sketched

**"As often seems
to be the case, so-called
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artist became involved
in selling
questionable works . . ."**

a locomotive in Vinita, Oklahoma. He continued to produce prodigiously until January 9, 1975, when he died of a heart attack

in his studio at the age of eighty-five, in front of his last mural.¹⁷

Over the course of his life, Benton went through dramatic changes in style, from Synchromist abstractions to realistic portraits. But at the time of his death, his development was not well understood, and it was thus possible to pass off work in a range of strange styles. As often seems to be the case, so-called friends of the artist became involved in selling questionable works, which became a very profitable venture.

Architectural Digest, vol. 56, no. 11, November 1999, p. 280; and Brook S. Mason, "Principals of Design – Geoffrey Bradfield," *Art and Auction*, May 2003.

¹⁷ For the early drawing of a train see my book *Thomas Hart Benton: An American Original*, p. 10; for an account of Benton's death, see the same source, p. 341, although embarrassingly, I listed the date incorrectly.

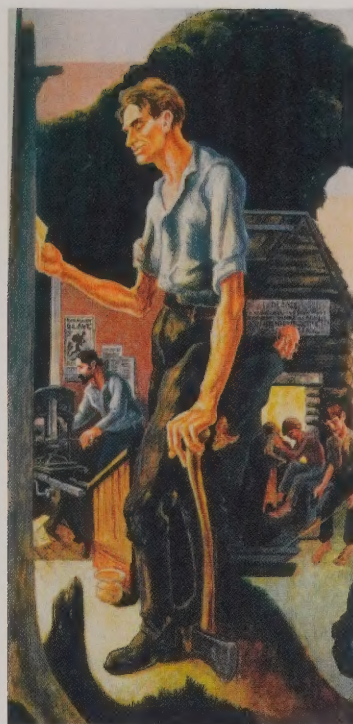
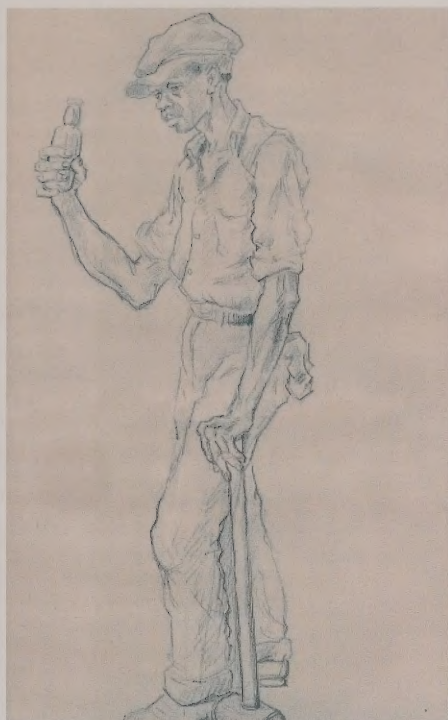


FIGURE 6A. “Man with a Sledgehammer” — Drawing submitted to the author as a purported work by Benton. The man’s body is based on the figure of Abraham Lincoln in Benton’s Indiana Mural, 1933, **FIGURE 6B (detail)**, now displayed on the Bloomington campus of Indiana University. Art © T.H. Benton and R.P. Benton Testamentary Trusts/UMB Bank Trustee/Licensed by VAGA, New York, NY.

CONNOISSEURSHIP

How does one determine true from false, original from forgery? The principle usually applied is that of quality — the work of the master contains genius; that of the forger or copiest is weak. At a certain level this is true; indeed, almost self-evident. But putting it into practice is not easy, for what constitutes quality varies from artist to artist. It is sobering to reflect that perhaps the most articulate spokesman of this approach, Jakob Rosenberg, wrote a monograph on Rembrandt in which fully half of the illustrations, according to current scholarship, are incorrectly attributed.¹⁸

Another celebrated follower of this method of discerning “quality,” Bernard Berenson, seems to have been right in his attributions only about half the time.¹⁹

¹⁸ For a discussion of the still controversial issue of what Rembrandt painted see Alan Levy, “The Rembrandt Research Project: Old myths, new methods,” *ARTnews*, vol. 75, no. 7, September 1975, pp. 34-42; Sylvia Hochfield, “Rembrandt, The Unvarnished Truth,” *ARTnews*, vol. 86, no. 10, December 1987, pp. 102-111; Henry Adams, “Will the real Rembrandts please stand up?” *Smithsonian Magazine*, vol. 26, no. 9, December 1995, pp. 82-91.

¹⁹ The issue of how often Berenson was right is complicated by the fact that in many instances scholars have still not reached a consensus about the authorship of paintings that he handled. The most complete attempt to gauge the degree of Berenson’s accuracy is that of Meryle Secrest in *Being Bernard Berenson, A Biography*, Weidenfeld & Nicolson, London, 1980, appendix, pp. 399-408.

In actual practice, determining quality requires knowledge of an artist’s development and idiosyncrasies. Without landmarks, identifying fakes is very difficult. But as you develop firm reference points as to what is real and what is fake, the process becomes easier.

Fake Bentons — that is, works that were manufactured as fakes — tend to be of two types: 1) pastiches of Benton motifs and 2) copies of famous Benton paintings, in a manner that resembles a preliminary study. The pastiches can be difficult to recognize but amusing when you discern their sources. For example, one drawing I examined portrayed an African-American



FIGURE 7. Thomas Hart Benton, *Persephone*, 1939. Egg tempera and oil resin over casein on linen mounted on panel. Unframed: 72 1/8" x 56 1/16". Art © T.H. Benton and R.P. Benton Testamentary Trusts/UMB Bank Trustee/Licensed by VAGA, New York, NY.

with a sledgehammer (Fig. 6A). The body was based on the figure of Abraham Lincoln (Fig. 6B) in Benton's *Indiana Mural*,²⁰ but the forger added an African-American head from some other source and changed Lincoln's axe to a sledgehammer.²¹ Quite often these

pastiches bring together pieces of paintings from different phases of Benton's career, something that Benton himself did not do.

²¹ The drawing was shown to me on July 26, 2000, by an individual in Texas, who stated that it had come from a private collection in England and had been offered to him at a bargain price. It was accompanied by two other drawings copied from works by Benton, one reproducing the figure of *Jessie with a Guitar*, 1956, and the other reproducing the figure of Emily Huntington from *The Music Lesson*, 1943.

²⁰ This 250-foot mural was designed for the Indiana hall at the 1933 Chicago Century of Progress Exhibition. It is now displayed at the Bloomington campus of Indiana University.

Direct copies, in the modern world, are easy to make: you can, for example, simply project a slide onto the wall, trace the outlines and fill in the colors. Voila! You have something that looks like a Benton preliminary study — or *almost* like, for even in a snapshot, many of these paintings look a little too flat to be by Benton.

It is also not uncommon to come across drawings based

on Benton lithographs. Generally the quality of the drawing is weak, and the image is not reversed. If Benton had made a preparatory drawing for a print, however, it would have been in reverse. Moreover, from talking with people who knew the artist, it is clear that Benton did not make charcoal studies for his prints.

Not infrequently, Benton “copies” come with stories designed to make them credible. For example, in 1990, a dealer sent me a weak copy of Benton’s painting *Spring Tryout* and then assured me over the phone that Jessie Benton had declared the painting to be authentic. Unfortunately for him, I had looked at that very painting with Jessie Benton just a few weeks earlier, and she had laughed it off as a clumsy fake.²²

Simple as they are to produce, copies made from slides can be reasonably deceptive. To spot them it helps to understand Benton’s working method. Benton’s large finished paintings, such as *Persephone* (Fig. 7), have a lot of detail. But Benton’s oil studies have a completely different look. Benton worked out the sculptural and rhythmic qualities of the design of his paintings with a clay model.

**“If you see a small-scale painting
by Benton with precisely rendered
details, it is not authentic.”**

He then made oil sketches in both color and grisaille from the clay model. Since they were made from the clay model, these sketches look like clay models. They have a slightly rubbery quality and not much detail — they were generally studies of design. Consequently, if you see a small-scale painting by Benton with precisely rendered details, it is not authentic. He hadn’t developed any degree of detail at this stage of his planning process.²³ Significantly, Benton’s oil studies show forms that sit slightly differently in space than in the final painting, since as he progressed he introduced little elaborations and changes. These little turns and twists of the form are surprisingly difficult for a forger to imitate, since you can’t create them by simply copying the surface of the final painting — you need to imagine the forms in three-dimensional space.

Many Benton fakes reproduce attractive details of Benton’s murals, but Benton himself did not make paintings of this sort, since they would have played no logical role in his working process. If you closely examine these fakes,

you generally find mistakes that Benton would never have made. For example, in a copy made from Benton’s Indiana mural, the faker gave the grain silo in the background a peculiar jagged roof. In fact, he got confused. He pictured the rake and mower blade of a cart as attachments to a building in the distance. Benton would never have misunderstood the meaning of the forms in this fashion.²⁴

Occasionally, conundrums of distinguishing copy from original can be perplexing. A few years ago a collector in Akron, Ohio contacted me in distress about a Benton landscape, *Wyoming*, that she owned. A seemingly identical painting had recently appeared on the “Antiques Roadshow.” Had Benton painted two nearly identical works? Or was her version a fake? In fact, the two images were amazingly similar. The dilemma was solved after a bit of research in my files. Her painting and the one on the television show were the same: she had been watching a *re-run* of an old episode. After the owner who had brought the work to the Roadshow had discovered its value, he put the painting up for

²² I looked at this painting with Jessie Benton in April 1990 while in Los Angeles for the opening of a Benton exhibition. I was back in Kansas City when I spoke with the dealer. Despite my remarks about the painting’s authenticity, the work was sold to an actor, who later attempted to sell it through Christie’s. The painting has a Macbeth Gallery label on the back. Macbeth was not Benton’s dealer, and, in addition, the label appears to be a forgery.

²³ For Benton’s use of clay models see Adams, 1989, p. 120. Benton’s working procedure for *Persephone* was described in some detail by Gibson Danes in his article “The Creation of Thomas Hart Benton’s *Persephone*,” *American Artist*, vol. 4, no. 3, 1940, pp. 5–7.

²⁴ This painting was first shown to me by an art dealer and, later, I was contacted for an opinion about it by Wechsler’s auction house in New York. I wrote expressing my doubts about the painting on January 30, 1996.



FIGURE 8A. Jackson Pollock, *Camp with Oil Rig*, c.1930-33. Oil on gessoboard, 18 x 25 3/8 inches. Private collection. © The Pollock / Krasner Foundation / Artists Rights Society (ARS), New York.

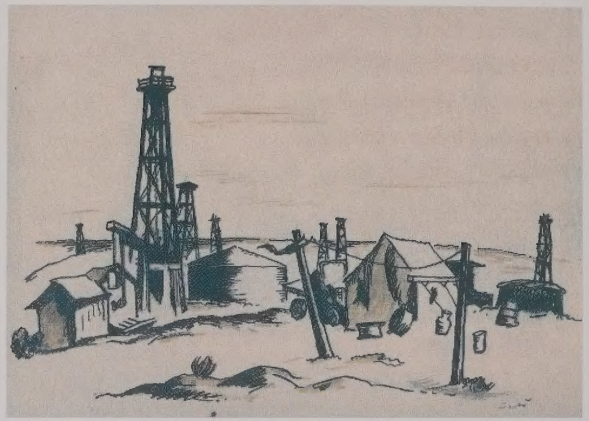


FIGURE 8B. Thomas Hart Benton, *Oil Field, Texas Panhandle*, 1926. Sepia, ink, pencil. 7 x 8 3/4 inches. Collection of James and Virginia Moffett, Kansas City.

sale at Sotheby's, where my caller bought it.²⁵

In addition to paintings that were clearly fabricated as fakes, it is common to find perfectly attractive paintings by minor figures from the 1930s and 1940s, to which Benton's signature has been added. While not by Benton, these are often quite genuine works of art. One painting I was shown of a barn, to which Benton's signature had been added, turned out to be by an artist named Laurence Barrett, now deceased, whom I once had dinner with in Colorado Springs.²⁶

In most case these pictures do not closely resemble Benton's work

²⁵ *Wyoming*, 1955, tempera and paper en grisaille, 13 x 17 inches, was acquired by her at Sotheby's, New York, December 3, 1997, lot no. 155.

²⁶ This painting was shown to me by a bookseller in Cleveland around 1999. I had dinner with Laurence Barrett in September 1996.

"A collector . . . contacted me in distress about a Benton landscape, *Wyoming*, that she owned. A seemingly identical painting had recently appeared on the "Antiques Roadshow."

from any phase of his career, so it is not difficult to deduce that the signature is a later addition. In the case of Benton's pupils, however, the style is often close to that of Benton. In some cases, his pupils worked alongside him in his classroom at the Kansas City Art Institute, making paintings of the same models and motifs. I have seen several versions of *Persephone* and *Instruction*, which show exactly the same model and composition as Benton's paintings of the subject. In 1941 Jackson Lee Nesbitt executed a masterful painting of a fiddler, which is said

to be similar in composition to a Benton of the same model that has disappeared, but which will presumably resurface someday.²⁷ While not by Benton, some of these paintings are quite beautiful. The art restorer Peter Fedora, for example, was offered a painting signed "Thomas Hart Benton," which he recognized as a work by

²⁷ The best account of Benton's pupils is Marianne Berardi, with an essay by Henry Adams, *Under the Influence: The Students of Thomas Hart Benton*, The Albrecht-Kemper Museum of Art, St. Joseph, Missouri, 1993. Nesbitt's painting of the violinist "Old Nick" is reproduced on p. 117.

John De Martelly, one of Benton's associates. As it happened, while the dealer had added a fake Benton signature to the front, he had forgotten to remove De Martelly's penciled name from the stretcher. When Fedora pointed this out, he was able to get a nice De Martelly painting for a modest price.

Over time, I've become familiar with the styles of many of Benton's friends and pupils. This makes identification much easier. In a few cases, Benton's pupils have gotten credit for paintings that he made. In my opinion, at least two paintings generally attributed to Jackson Pollock may well be by Benton. One is a study for the *Steel* panel of Benton's *America Today* mural of 1930, which is reproduced in the Naifeh and Smith biography of Pollock as a work by Pollock. Pollock posed for this panel of the mural, but the painting, in my opinion, is not by Pollock: it has all the hallmarks of Benton's preliminary studies.²⁸ The other

is a painting of an oil field near Borger, Texas (Fig. 8A).²⁹ This is listed as a c.1930-33 work by Pollock in the catalogue raisonné of Pollock's work (vol. 1, no. 4), but the painting directly follows a 1926 drawing by Benton in a private collection in Kansas City (Fig. 8B). There is no other instance in which Pollock made a direct copy of a drawing by Benton, and there is no known painting by Benton of this subject. If this work *is* by Pollock, it shows he came much closer to Benton than is generally realized.

As the body of known examples of Benton's work grows larger, it becomes easier to tell whether a work fits into Benton's development. I now work in partnership with a group of experienced connoisseurs at the Owen Gallery in New York preparing a catalogue raisonné on Benton. The committee includes Michael Owen, Jim Yost, and Andrew Thompson, as well as Benton's daughter, Jessie, and his grandson,

Anthony Gude, who grew up with Benton's work and understand it in an intimate way. Having several pairs of eyes studying a problem is better than one.

Infallibility has thus far eluded me. Most art historians deal with works that have already been published and documented. That protects them to a large degree. To be confronted with a newly discovered or little-known piece is daunting, particularly if there is nothing to go on but the visual data. While many fakes are obvious, others are less so. What is more, as I have indicated, it is easy to be deceived not only through the visually deceptive qualities of the work itself, but through other factors that are misleading, such as false documentation, or inaccurate statements by supposedly scientific conservators or expert scholars. Invariably, just at the point when I am ready to declare that I cannot be fooled, a new work appears that leaves me bewildered.

• • •

²⁸ See Stephen Naifeh and Gregory White Smith, *Jackson Pollock, An American Saga* (Aiken, South Carolina: Woodward/White, 1991—first published by Clarkson Potter, New York 1989), p. 191. The painting in question is clearly not based on Benton's mural, since it not only eliminates details but portrays figures in poses that are significantly different from the final painting. It is clearly one of Benton's oil studies for the painting, and its style, pigments and materials seem to closely match with Benton's other studies for the *America Today* mural.

²⁹ See Francis Valentine O'Connor and Eugene Victor Thaw, *Jackson Pollock, A Catalogue Raisonné of Paintings, Drawings, and Other Works*, Yale University Press, New Haven and London, 1978, vol. 1, p. 4, no. 4, where the provenance states that the work was a gift by Pollock to his brother, Sanford McCoy. See also Deborah Solomon, *Jackson Pollock, A Biography*, Simon and Schuster, New York, 1987, fig. 1, opposite p. 154. The related drawing by Benton, now in the James and Virginia Moffett collection, Kansas City, is reproduced and discussed by Karal Ann Marling, *Tom Benton and His Drawings: A Biographical Essay and a Collection of His Sketches, Studies, and Mural Cartoons*, University of Missouri Press, Columbia, Missouri, 1985, pp. 67-69.

THE RECOVERY FROM AUSTRIA OF FIVE PAINTINGS BY GUSTAV KLIMT

AN IFAR EVENING WITH THE NEUE GALERIE

JULY 31, 2006

E. RANDOL SCHOENBERG*

EDITOR'S NOTE:

On July 31, 2006, IFAR held an extraordinary IFAR Evening at — and with — the Neue Galerie in New York where E. Randol Schoenberg, grandson of the composer Arnold Schoenberg and attorney for Maria Altmann, described his successful eight-year battle with the Austrian government to recover five paintings by Gustav Klimt that had belonged to Mrs. Altmann's uncle, Ferdinand Bloch-Bauer, before WWII. The most famous of the paintings, "Adele Bloch-Bauer I," had just been purchased by the Neue Galerie, and the other four were temporarily on exhibit, prior to sale at Christie's. IFAR's guests were treated to a private viewing of the works and an elegant reception in the Galerie's Cafe Sabarsky. The Evening was so popular that Mr. Schoenberg agreed to give a second talk the same day, but IFAR was still unable to accommodate all who wished to attend. We are grateful to the Neue Galerie for making their lovely space available to us and to Chubb Personal Insurance for their underwriting support of the event. The following is an edited version of the talk and Q&A.



I would be pleased to speak about this case anywhere and anytime, but it is a special pleasure for me to be at the beautiful Neue Galerie, in such close proximity to the famous gold portrait of Adele Bloch-Bauer (Fig. 1) and the four other recovered Klimt paintings (Figs. 2–5), and to relay the long saga of how they came to be here. The very first time that I saw the painting of Adele Bloch-Bauer, I was just eleven years old, on my

first trip to Vienna. My mother brought me to the Austrian Gallery Belvedere and said, "Do you see this picture? It shows Adele Bloch-Bauer, the aunt of your grandmother's friend, Maria Altmann." Little did I know that thirty years later I would be responsible for bringing the painting out of that museum and here to New York for permanent display. I couldn't be happier.

Let me start this story a hundred years ago with a history of the paintings. Gustav Klimt (1862–1918) was the leading painter in Vienna at the turn of the

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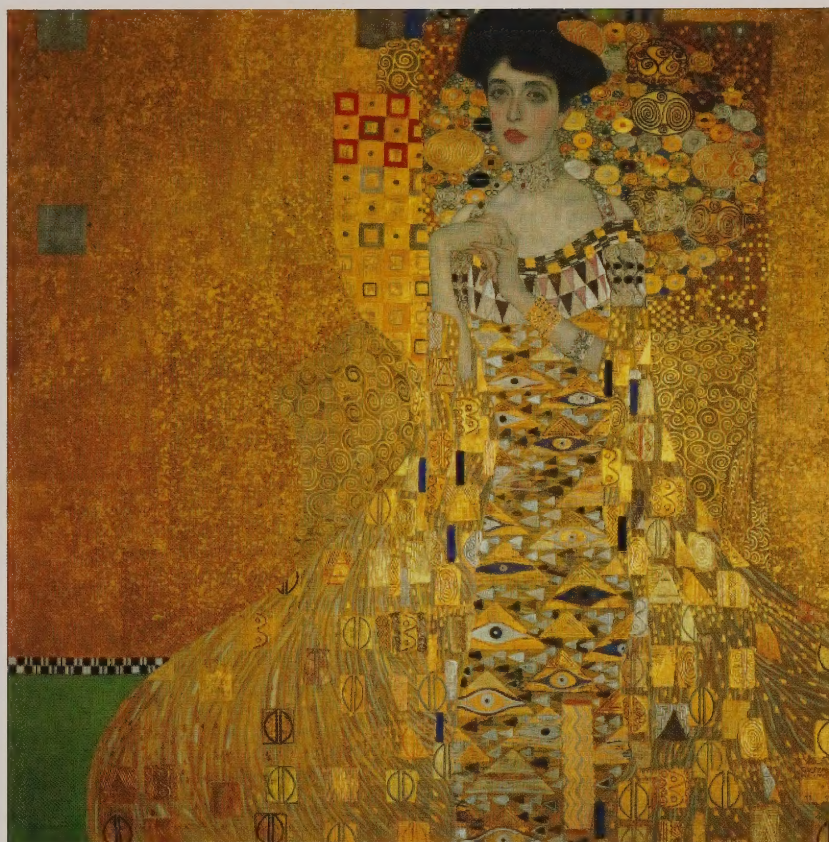


FIGURE 1. Gustav Klimt. *Adele Bloch-Bauer I*, 1907. Oil, silver, and gold on canvas. 138 x 138 cm. Neue Galerie, New York. Photo: Erich Lessing / Art Resource, NY.

last century, when there was an enormous outpouring of intellectual development in just about every field, whether Sigmund Freud in psychology or Gustav Mahler and my grandfather, Arnold Schoenberg, in music. Art was no exception. The wonderful exponents of that art are in this museum. Viennese arts patrons included a number of recently wealthy Jewish families, among them the Bloch-Bauers. The Bloch-Bauers were actually two brothers named Bloch who married two sisters named Bauer, and the families became Bloch-Bauer. The older ones, Gustav and Theresa Bloch-Bauer, had five children, the youngest of which, Maria Altmann, is now ninety years old and was my principle client and my grandmother's good friend. She is the last surviving Bloch-Bauer, if you will. Her uncle and aunt, Ferdinand and Adele Bloch-Bauer, did not have children. Perhaps as a result of that they turned to collecting art.

Ferdinand's job as the president of one of the largest sugar manufacturing companies in central Europe helped them acquire their paintings. Sugar is important to the diet in that part of the world so this sugar baron, as he was known, Ferdinand Bloch-Bauer, had the ability to buy quite a number of artworks. He bought not only these paintings by Klimt, but also an enormous collection of older Austrian works, including works by 18th and 19th century masters. He had nine paintings by Ferdinand Waldmüller (1793-1865), whom no one knows today, but who at the time was the favorite Austrian painter of a young art student in Vienna named Adolf Hitler. The Bloch-Bauers also had a three-hundred-piece porcelain collection, which was the largest and most wonderful of its time. Perhaps thanks to Adele Bloch-Bauer, they commissioned two portraits from Gustav Klimt.

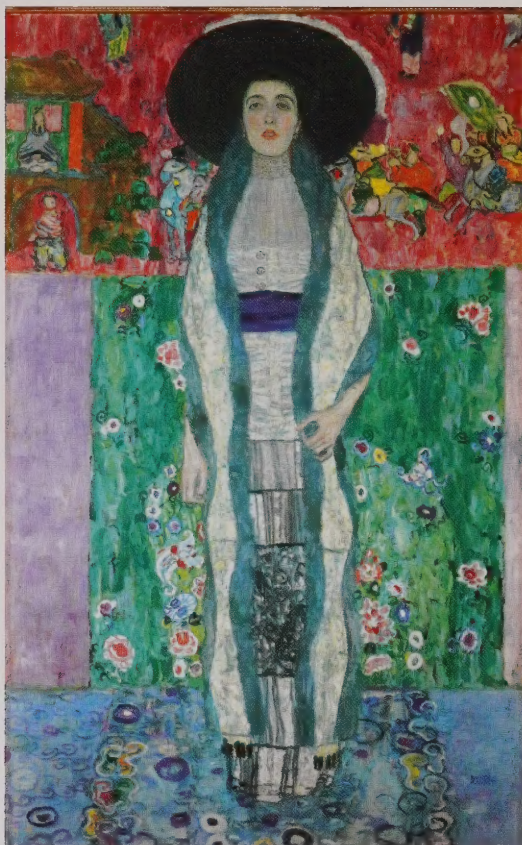


FIGURE 2. Left: Gustav Klimt. *Adele Bloch-Bauer II*, c.1912. Oil on canvas. 190 x 120 cm. Estates of Ferdinand and Adele Bloch-Bauer. Photo: Erich Lessing / Art Resource, NY.

FIGURE 3. Above: Gustav Klimt. *Apple Tree I*, 1912. Oil on canvas. 110 x 110 cm. Estates of Ferdinand and Adele Bloch-Bauer. Photo: Erich Lessing / Art Resource, NY.

ADELE AND THE PAINTINGS

Maria Altmann characterizes her aunt Adele as a Socialist socialite — extremely wealthy and yet very civic-minded. She supported orphanages and workers and was a big fan of the leading Socialist politician at the time, Karl Renner. She also liked modern art and, being somewhat of an intellectual but not having gone into any field, she surrounded herself with the intellectuals and artists of the time including Klimt, the composer Richard Strauss, and various writers and politicians. Adele must have been the one who convinced her husband to commission the two wonderful portraits of herself (Figs. 1 and 2) on exhibit, and to buy the other three landscapes on exhibit (Figs. 3–5).

Ferdinand Bloch-Bauer purchased two other Klimt paintings: one was a landscape of a beautiful castle, *Schloss Kammer am Attersee III* (Fig. 6), which I'll discuss, and then, in the 1920s, another portrait of

a family friend, *Amalie Zuckerkandl* (Fig. 7). So at one time Ferdinand Bloch-Bauer had seven Klimt paintings. There were, I think, only three collecting families that had that many Klimt paintings; all of them happened to be Jewish. In addition to the Bloch-Bauers, there was the Zuckerkandl family, which had eight or nine Klimts at various times; another was the Lederer family, with about ten or more Klimts. So these three families were responsible for a large proportion of Klimt's overall output. He died in 1918 leaving behind perhaps 80-100 major works, of which these five are representative.

Adele and Ferdinand Bloch-Bauer displayed the two portraits of Adele and four landscapes by Klimt in a room in their home in Vienna. Unfortunately, Adele died very suddenly of meningitis in 1925. She left a handwritten will that she had penned two years earlier when her mother had died. In that will she made a number of bequests to orphanages and the workers of Vienna, and she then added a paragraph that says:



FIGURE 4. Gustav Klimt. *Birch Forest*, 1903. Oil on canvas. 110 x 110 cm. Estates of Ferdinand and Adele Bloch-Bauer. Photo: Erich Lessing / Art Resource, NY.



FIGURE 5. Gustav Klimt. *Houses at Unterach on the Attersee*, c.1916. Oil on canvas. Estates of Ferdinand and Adele Bloch-Bauer.

*I ask my husband to give my two portraits
and the four landscapes by Gustav Klimt to
the Austrian Gallery upon his death.*

How was that will seen at the time? In 1926 Maria Altmann's father, Gustav Bloch-Bauer, who was the executor of Adele's estate and also the lawyer for the family, filed the document in the Viennese court. The filing describes Adele's will and says that she makes various bequests which do not have the binding character of a testamentary request. In other words, the will, he says, is just a wish. But Adele's husband, Ferdinand, dutifully promises to fulfill her wishes. Gustav Bloch-Bauer added: "It should be noted that the Klimt paintings were not her property but his." So the circumstance in 1925, when Adele died, was that the paintings were Ferdinand's property; she left a request in her will, and he, at that time, intended to fulfill her wishes and donate these paintings to the Austrian Gallery. In fact, in 1936 before he died, he donated the missing landscape, *Schloss Kammer am Attersee III*

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(Fig. 6), to the Austrian Gallery and replaced it in the same room in his home with a portrait of himself by Oscar Kokoschka (Fig. 8). So he was left with the five Klimt paintings on exhibit (Fig. 1–5) and the *Portrait of Amalie Zuckermandl* (Fig. 7), which hung in a different room. According to Maria Altmann, the Klimt paintings were set apart in the house in what they called a memorial room, where there were always fresh



FIGURE 6. Gustav Klimt. *Schloss Kammer am Attersee III (Wasserschloss)*, 1910. Oil on canvas. Österreichische Galerie im Belvedere, Vienna, Austria. Photo: Erich Lessing / Art Resource, NY.



FIGURE 7. Gustav Klimt. *Amalie Zuckermandl (unfinished)*, 1917-18. Oil on canvas. 128 x 128 cm. Österreichische Galerie im Belvedere, Vienna, Austria. Photo: Erich Lessing / Art Resource, NY.

flowers, and Ferdinand, apparently, could go and think about his deceased wife and look at the paintings.

THE WAR

In 1938 everything changed for Austrian Jewish families. In March of that year the Nazis annexed Austria and Hitler returned to his homeland triumphantly. Jews like Ferdinand Bloch-Bauer were high on the list of targets of the Nazis even before they entered, and so Ferdinand fled from Vienna in 1938, on the eve of the Anschluss, first to his castle — really a large estate — outside of Prague, Czechoslovakia, where the family would spend summers. Maria Altmann also spent many summers there, and I think Klimt actually visited that castle about twenty years before. From Czechoslovakia Ferdinand escaped to Zurich, Switzerland where he remained until the end of the war. As an interesting aside, his castle then became the home of Reinhard Heydrich, who was known as the *Reichsprotektor* of Bohemia and Moravia. Heydrich was the architect of the final solution; he held the Wannsee Conference. Thus, the extermination of the Jews of Europe was presumably plotted from within Ferdinand's home in Czechoslovakia.

Meanwhile, in Vienna, Ferdinand's home was ransacked and liquidated. Ferdinand hired a Nazi lawyer with the unfortunate name of Dr. Eric Führer to fend off the Nazi efforts at liquidating his estate, but that was unsuccessful, and Dr. Führer turned into the liquidator himself, selling off all of Ferdinand's assets to pay taxes that the Nazis had levied against him. This included the home where the paintings were once housed. That home was used as the headquarters for the German railroad in Vienna. So, while Heydrich was planning the extermination of the Jews from Ferdinand's home outside Prague, the deportations of 60,000 Austrian Jews was probably handled from Ferdinand's home in Vienna.

What happened to his paintings? As I mentioned, Ferdinand's collection attracted the immediate attention of the Nazis. Hitler himself was a huge fan of Waldmüller, and Ferdinand had one of the finest Waldmüller collections in Vienna, with nine of them up for the taking. Hitler ended up with several of them, and several were purchased for his planned Führer Museum in Linz, Austria, near his birthplace. Goering was given a couple of them by a friend who bought them from Dr. Führer, and the others were



FIGURE 8. Oskar Kokoschka. *Portrait of Ferdinand Bloch-Bauer*. Kunsthhaus Zurich. © 2006 Artists Rights Society (ARS), New York/ProLitteris, Zürich.

dispersed. The Klimt paintings, however, were a little too modern for the taste of the top Nazis, so they went primarily to local Austrian museums. The Austrian Gallery obtained the gold portrait (Fig. 1) and the *Apple Tree* (Fig. 3) from Dr. Führer in exchange for the return of the castle landscape, *Schloss Kammer am Attersee III* (Fig. 6), which Ferdinand had already donated in 1936, so Dr. Führer got *Schloss Kammer am Attersee III* back. He then sold that castle landscape to an illegitimate son of Gustav Klimt named Gustav Uccicky, a famous Nazi film director who liked to collect paintings by his father. Uccicky bought not only the landscape that Ferdinand had donated to the Austrian Gallery, but at least three others that have recently been returned to Jewish families, including one that was returned to the family of Maria Altmann's brother-in-law, Bernhard Altmann.

The Austrian Gallery bought the standing portrait of Adele Bloch-Bauer (Fig. 2) in 1943 from Dr. Führer, so the Gallery ended up with three of the paintings by the end of the war. The *Birch Forest* (Fig. 4), an early landscape, was purchased by the City Museum of Vienna, and Dr. Führer himself kept *Houses at*

Unterach on the Attersee (Fig. 5) along with eleven other works from Ferdinand's collection. Thus, at the end of the war, the Austrian Gallery had three of the Klimt paintings, the two portraits and *Apple Tree*; the City Museum had *Birch Forest*; and *Houses at Unterach on the Attersee* was with Dr. Führer.

THE ALTMANNNS

What happened to Ferdinand's family? Ferdinand's sister was killed, but the children of his brother Gustav managed to survive. Maria Altmann, the youngest, came to Los Angeles, California. Her story is a fascinating one. She married at age 21 at the end of 1937, so she had been married just a few months when the Anschluss took place in March of '38. Her husband, Fritz Altmann, was the much younger brother of Bernhard Altmann, the famous sweater manufacturer. Bernhard, like Ferdinand Bloch-Bauer, was very high on the list of Nazi targets, and he fled immediately before the Anschluss, but because he was in the textile business, he was able to tell his customers in other countries not to send their checks to the Vienna office. Rather, he would pick them up. So he went to Paris and London and Rome, picked up checks from his customers, and was able to set up shop in England. The Nazis responded by selling basically the entire contents of his home in June of 1938. Then they arrested his younger brother Fritz, Maria's husband, and sent him to Dachau. They held Fritz as ransom until Bernhard agreed to return the receivables and sign over his sweater company to the Nazi "Aryanizer," which Bernhard did. Bernhard then arranged the escape of Maria and Fritz (still under house arrest) through Germany, up into Holland, and then to freedom in England. On the eve of war, they managed to go to the United States, first to Fall River, Massachusetts, and then to Hollywood.

In Hollywood Maria and Fritz reconnected with Fritz's longtime friend, my grandfather on my mother's side, Eric Zeisl, also a composer. The Zeisls and the Altmanns became very close friends, and my mother essentially grew up with the Altmann children, which will explain how I get involved with the situation a little bit later. So, at the end of the war, Maria

and her siblings escaped. Most of the others ended up in Canada. One sister who ended up in Croatia, where her husband was executed after the war by the communists for being a capitalist, ultimately escaped to Canada also. So, Ferdinand's nieces and nephews were outside of Austria, and Ferdinand was in Switzerland. He lived to see the end of the war, but died in Zurich in November 1945. Because he hadn't recovered any of his property, he left behind a very short will. Not surprisingly it did not leave any paintings to the Austrian Gallery. Rather, Ferdinand left his entire estate, consisting only of restitution claims, to his two nieces and one of his nephews. It fell on those three heirs to locate Ferdinand's prop-

erty. It is helpful to understand the restitution procedures. The Allies, principally the American government, set up an Art Collecting Point in Munich, where they collected the paintings that had been recovered from various Nazi storage facilities. But individuals were not allowed to go to the Munich Art Collecting Point and just pick up their artworks. Rather, only governments could recover artworks: the policy was to return paintings to their countries of origin. So, if a painting had been taken out of the Louvre and ended up in Goering's collection, it would be brought to the Munich Art Collecting Point, the French government would make an application, and the Munich Art Collecting Point would return the painting to France. For collections such as the Bloch-Bauer collection from Vienna, Dr. Rinesch would have to apply to the Austrian government for it to ask the Allies at the Munich Art Collecting Point to return the paintings to Austria. Then he would have to ask the Austrian government to return the paintings to him on behalf of the heirs.

"The [Austrian government] would deny export permits for large portions of the restituted collections and coerce families into making donations of the artworks."

erty and to recover as much as possible. Maria's older brother Robert, who had changed his name to Robert Bentley in Vancouver, hired a family friend, Dr. Gustav Rinesch in Vienna, and Dr. Rinesch was given the task of locating and recovering Ferdinand's property. For a while I didn't understand why it took so long to do this type of work, but now, with the recent example of Iraq, we see what chaos follows regime change, if you will, and war. Vienna was no different than Baghdad today in that respect.

POST-WAR AUSTRIA

It took three years, from the end of the war until 1947–48, for the first restitution laws to make restitution possible for Jewish families. The entire Nazi period in Austria lasted only six years. It wasn't until the end of 1947, early '48, that Dr. Rinesch began making inroads in finding Ferdinand's collection. A number of the paintings, as I mentioned, although not the Klimts, had been collected by Hitler and Goering and for the Führer Museum.

This meant that the paintings were in Vienna, but the heirs were in Canada and the United States. Thus, in order to remove the paintings, Rinesch would have to apply for export permits. This procedure gave Austria an opportunity for extortion with many Jewish families, not just the Bloch-Bauers. They would deny export permits for large portions of the restituted collections and coerce families into making donations of the artworks. Let's say you applied to export twenty paintings. The government would say: "Eight of these are too important to Austria, you cannot get them out." If someone tried to appeal, the government would say: "If you would donate five of eight paintings that we say are important to our Austrian museums, we will let you take the other three out of the country." By this procedure Austria enriched its museums at the expense of many Austrian Jewish families — the Austrian Rothschild family for example, and many others.

Dr. Rinesch was aware of this procedure in 1948 when he wrote to the Austrian Gallery and asked about the Klimt paintings. The response from the Austrian Gallery was a very aggressive one. It said

that the paintings belonged to the Austrian Gallery through the will of Adele Bloch-Bauer already in 1925, and that Ferdinand Bloch-Bauer was allowed to keep them during his lifetime, but the three works the Gallery currently had (Figs. 1–3) belonged to them, and Dr. Rinesch, on behalf of the heirs of Ferdinand Bloch-Bauer, was responsible for returning the other three that they didn't have. The latter included *Houses at Unterach on the Attersee*, which Dr. Rinesch had recovered from the Führer's collection, *Birch Forest*, in The City Museum of Vienna, and *Schloss Kammer am Attersee III*, which was in Gustav Uccicky's apartment. Thus Austria took a very aggressive approach. There is even correspondence between the director of the Austrian Gallery and the state attorney preparing for lawsuits in this case.

Meanwhile the director of the Austrian Gallery wrote to the Federal Office for Protection of Historical Monuments in April of 1948, after having viewed some of the collection that was recovered, and asked the Federal Monuments Office to delay the export permit procedure for tactical reasons related to the Klimt paintings. Therefore, Dr. Rinesch made a decision. He met with the director of the Austrian Gallery just one week later on April 10, 1948. Incidentally, this was the first day that Rinesch actually saw the will of Adele Bloch-Bauer. The very next day he wrote to his clients, and concluded, as Adele's executor Gustav Bloch-Bauer had, that the will itself did not give the Austrian Gallery a right to the paintings, but he thought that the promise that Ferdinand had made in 1926 might have. So he met with the Austrian Gallery director, and he made a deal. He said, the heirs would acknowledge the will of Adele Bloch-Bauer: We will leave the paintings in the museum. We will even help you get the other ones back, and through that we hope to get your cooperation in getting export permits for other paintings, namely, the Waldmüller and other old Austrian paintings, the porcelain, the drawings, and things like that. That worked. Not without some difficulties, but it worked.

Over the next year and a half, Dr. Rinesch was successful in exporting most of the rest of the collection with the exception of sixteen Klimt drawings and nine-

teen porcelain settings, which were also donated in the process of getting export permits. So if you had asked Maria Altmann between 1948 and 1998 what happened to *Adele Bloch-Bauer I*, she would have said: "It's too bad; my aunt willed it to the museum, and we never got it back." That was the story that came down to her from the lawyer. She had no idea that there was a possibility of making a claim for the painting.

TURN OF EVENTS IN 1998

But that changed in 1998. At the end of 1997, Judith Dobrynski wrote a story for the *New York Times* on an Egon Schiele painting — *Portrait of Wally* — that was on loan to the Museum of Modern Art in New York from the Leopold Museum in Austria. The article said that a family was claiming that Schiele painting, whereupon the district attorney in Manhattan, Robert Morgenthau, filed a lawsuit to seize the painting. That developed into litigation, which is still ongoing.

The Austrian government was outraged by the litigation. The Minister of Culture and Education, Elizabeth Gehrer, made a statement effectively saying it was all absolutely ridiculous; we don't have any looted paintings in Austria; we gave everything back after the war; and we can't be accused of these types of things. Whereupon Hubertus Czernin, a wonderful journalist who recently passed away — not incidentally, the same journalist who uncovered the Kurt Waldheim story ten years before — decided to take up the minister's challenge. He looked up the provenances of the various paintings, in government archives, for example. In looking up the gold portrait of *Adele Bloch-Bauer I*, which had been featured in a recent book published by the Austrian Gallery, the provenance said: "Donated 1936 by Ferdinand Bloch-Bauer." Czernin uncovered the trade that Dr. Führer had made in 1941, when he traded the gold portrait and *Apple Tree* for *Schloss Kammer am Attersee III* in a letter signed "Heil Hitler." Czernin also uncovered the documents showing the post-war extortion, and the various internal documents that demonstrated the aggressive position the Austrian government had taken vis-à-vis the Bloch-Bauer heirs. He wrote an

exposé, not just regarding the Bloch-Bauer paintings, but also concerning the Austrian Rothschild family, the Lederer family, and many others.

NEW AUSTRIAN RESTITUTION LAW

The exposé caused a bombshell in Austria. The Austrian minister established a provenance commission, and, ultimately, in September of 1998, she proposed a new art restitution law for Austria,¹ which was designed to return artworks from federal collections that had been donated in exchange for export permits or that had been looted during the war and then obtained, perhaps in good faith, by an Austrian museum after the war. Let us say a museum had bought a painting from a private collector which turned out to be one that had been looted by the Nazis. If the artwork was in a federal collection, the Austrian government was given the ability by this law to return it. The law didn't have any teeth to it. It did not allow a private right of action; it did not allow claimants to participate in the procedure; it just said that the government would set up an advisory committee, and if the government decided that it wanted to, it could return a painting.

In September 1998, Maria Altmann got a call about this new law from a man in Vienna named Peter Moser, Austria's former general consul in Los Angeles and later its ambassador to the United States. As she had no idea what he was talking about, she did what she normally did under those circumstances, she tried to call my mother, to see if my mother could call me, to see if I could find out. But my parents, as it happened, were in Vienna at the time for an event at the Schoenberg Center with my grandfather's archives. By coincidence, I had looked on-line at the Austrian newspapers and had seen the headlines about this new art restitution law, including a discussion of the famous gold portrait and the Bloch-Bauer collection. So when Maria called me and said, "Randy, I got this call," I said, "I know what it is about." We got together and decided to work on it. I was thirty-one

years old, just shy of my thirty-second birthday. There wasn't much to do initially other than wait for the Austrian law to go into effect, and see what the advisory committee would do. It was set up, if you can believe it, without any members of the Jewish community; just bureaucrats and art historians, none of them particularly fans of restitution. This committee was given the task of advising the minister which paintings should be returned. At first, with much fanfare, they returned hundreds of artworks. The number may be misleading because it included coins, and each coin, for example to the Rothschild family, was considered a separate artwork.

In 1999 the committee considered the Bloch-Bauer family. I had sent the commission several legal opinions that I had obtained from an Austrian lawyer, Dr. Andreas Lintl, about Adele Bloch-Bauer's will, which, I figured, would be the real issue. I later found out that the head of the commission did not share the opinions with all the other members. I called one of the lawyers on the commission, Dr. Manfred Kremser, to offer to come to Vienna and meet with him to discuss whatever issues they might have. I was told that they decided not to have any external discussions. I said that sounded a little unfair; I was not just somebody, I was the lawyer for Maria Altmann and shouldn't she have a right to participate? He said, "No, we are doing this all internally." He added: "Mr. Schoenberg, you can come and meet with me at any time, but we cannot talk about the case." So that is where things stood.

In June of 1999, not surprisingly, I think, given that attitude, Austria decided not to return the Klimt paintings to the Bloch-Bauer heirs. They did return the porcelain and drawings, which were at issue, but none of the Klimt paintings. As an excuse they gave the will of Adele Bloch-Bauer, the same story that the Austrian Gallery had given in 1948, namely that Adele had willed the works to the Gallery. Thus, their claim of title had nothing to do with the Nazi era. I disagreed. I believed that Adele Bloch-Bauer's will was a wish. In lawyers' terms, we would call it precatory, and, therefore, that the title to the painting was only transferred in 1948 by Dr. Rinesch when he acknowledged the will in exchange for export permits.

¹ Federal Act Regarding the Restitution of Artworks from Austrian Federal Museums and Collections, dated 4 December 1998, Federal Law Gazette 1 No. 18111998.

I thought that this exchange should fall under the new Austrian restitution law. So I wrote a long letter to the Minister of Culture and Education pointing out the mistakes that were made and the evidence that we had. I suggested that we resolve what was essentially a legal dispute about a will not with her advisory committee, which was made up mainly of bureaucrats and art historians, but with arbitration. They would pick one arbitrator; we would pick an arbitrator; and those two arbitrators would pick a third. The arbitrators in Austria would decide under Austrian law whether the will gave Austria the right to the paintings. The minister's response said: If you disagree with our decision, your only remedy is to go to court.

LEGAL ACTION

I'm a lawyer, that is what I do. At the time I was working in the Los Angeles office of Fried Frank Harris Shriver & Jacobson, a large New York firm, and I very naively looked into the possibility of suing. At first I thought that the obvious place to sue was Austria. An Austrian lawyer, Dr. Stephan Gulner, was willing to look into the case. The new law didn't create a right to make a claim, but he thought there was an equal protection argument and another argument that he might be able to make, and he prepared a complaint. It was very well written. I thought we should file it. He said, "You know, in order to file a complaint in Austria, you have to pay filing fees." I said, "Okay, we can probably pay a few hundred dollars, that's no problem." He said, "No, you don't understand. The filing fees in Austria are calculated as a percentage of the value at stake in the litigation. In this case, it would cost about two million dollars just to file the complaint." That was out of the question. Maria Altmann and two of the other heirs who were going along at this stage did not have that type of money. They all lived relatively modest, middle-class lives and did not have two million dollars to spend on a speculative lawsuit in Austria. Our lawyer suggested we apply to the court to reduce the filing fees. So Maria Altmann filed a declaration of her assets, not unlike the one she had to fill out in 1938 when the Nazis came in, listing everything that she owned. We submitted that to the court, and

the court decision said you are correct; you do not have to pay so much *more* than your entire estate to file a lawsuit in Austria, you just have to pay *all* of your available assets. She would have had to pay basically everything but her home in order to go ahead with the lawsuit, several hundred thousand dollars. This was not possible. But the Austrian government actually appealed that decision, and said that she should pay more, including the value of drawings and porcelain that the Austrian government hadn't yet returned to her. At that point I looked at the possibility of suing in the United States. After all, Maria Altmann was in Los Angeles, like me, and she had lived there since 1942. So I looked in the code book that every lawyer has on his shelf to see how you can sue a foreign state in the United States.

FOREIGN SOVEREIGN IMMUNITIES ACT

The Foreign Sovereign Immunities Act, passed in 1976, regulates when you can and cannot sue a foreign state. Not surprisingly, it says you *cannot* sue a foreign state, except in certain situations. One of these exceptions, which is rarely used, is:

- 1) when the property was taken in violation of international law — I thought the Bloch-Bauer claim fit that;
- 2) the property is owned or operated by an agency or instrumentality of a foreign state. Here the property — the art — was owned or operated by a museum, the Austrian Gallery, which is an agency of a foreign state; and
- 3) the agency or instrumentality is engaged in a commercial activity in the United States.

If you meet all these criteria, then you can sue.

On that third hurdle, I asked myself, what do they do in the United States? They sell books; they advertise their exhibits; they have U.S. tourists come and use their American credit cards. Arguably, there might be enough of a nexus. I relied on a case from the Ninth Circuit in California that had to do with a Jewish family from Argentina that had lost a hotel. The court held that the family members could

sue Argentina because that hotel had advertised in the United States and attracted U.S. tourists. With that precedent, I decided that it would be possible for Maria Altmann to file a lawsuit in the U.S. Unfortunately, my law firm was not so keen about the idea, so I left and opened up my own office in 2000. One of the first things I did was file a lawsuit for my grandmother's old friend, Maria Altmann.² It didn't cost two million dollars. It cost two hundred-fifty dollars to file the complaint. We were not overly optimistic about our chances. In an old e-mail I even refer to my filing as a public relations stunt, something to keep the case alive. That is what happened. We kept the case alive. Austria responded to the complaint by hiring the Jewish law firm of Proskauer Rose, which sought to dismiss the claim on eight different grounds, one of which was sovereign immunity. They argued that the Foreign Sovereign Immunities Act of 1976 could not be applied to events that took place prior to that. Fortunately, we had a terrific district court judge, Florence Cooper, who rejected Austria's motion. She denied it in its entirety and, in May of 2001, said that we could proceed with the lawsuit. It was a huge surprise.

We were not yet out of the woods, however. Austria had a right to appeal because it was a sovereign immunity question. It appealed to the Court of Appeals for the Ninth Circuit. I argued in the Ninth Circuit and, in December 2002, the Ninth Circuit unanimously ruled in our favor, affirming the district court. At this point things were looking very good because, usually, the Court of Appeals is the last word on any appeal. But then the U.S. government got involved. I think they were receiving calls from various governments concerned about the precedent we had just set in the Ninth Circuit. There were a lot of pending class action suits asserting historical claims against Poland, Austria, Japan, Mexico and France, and these actions were not making our foreign allies (countries who are *now* our allies) very happy. They asked the State Department to intervene, so the State Department, through the Solicitor

General's office, filed a brief asking the Ninth Circuit to reconsider its decision, which, thankfully, it did not do. In May 2003 that decision became final. But then Austria petitioned the U.S. Supreme Court, and the Supreme Court decided to take up the case.

THE U.S. SUPREME COURT

We were not so happy anymore. The Ninth Circuit does not fare well in the Supreme Court. Its decisions are almost always reversed. This case seemed to be headed for a reversal as well. If you had asked anybody following the case, lawyers especially, whether we had a chance to win, they would have said without hesitation, "No." I might not have disagreed. But I did my best in preparing the brief that was submitted, and then I prepared for the oral argument. To prepare for oral argument in the Supreme Court, especially if, like me, you've never done it before, you do practice sessions, called moot court sessions. I did one at the University of Southern California Law School, my alma mater, one at Santa Clara University, and one at Georgetown. Professors and lawyers pepper you with questions pretending to be Supreme Court justices, so that by the time you go before the Supreme Court, you are prepared for anything.

I went to the Supreme Court in February 2005 with my family and Maria Altmann and her family, determined to do the best that I could. My goal at the time, I think, was to get one justice on our side so someone would write our side of the story. I certainly did not expect to win. I just wanted to do the case right and not fall on my face.

Austria's lawyer spoke first, and then the U.S. government's lawyer because I had won in the Ninth Circuit. By the time I stood up, it seemed to me that some of the justices may have read my brief, perhaps even agreed with what I was saying. You do not prepare a speech in the Supreme Court; you get interrupted with questions. I had prepared a very short introduction with an outline of what I wanted to say. I started off saying "There are four grounds for affirming the Ninth Circuit, one is . . ." and, boom, I got inter-

² *Altmann v. Republic of Austria*

**"I went to the Supreme Court in February 2005. . . .
I certainly did not expect to win. . . . Three months later . . .
the phone rang. . . . 'You won six-three'."**

rupted by Justice David Souter. He speaks with a New England drawl that's difficult to understand. He had a long convoluted question that went on and on and on and on, and on and on. All of the sudden he ended the question, and he looked at me and I looked at him, and I had not the slightest idea what he had just said, not a clue. You can read it in the transcript. It says, "Well, umm...", as they are waiting for me to say something. Everyone was waiting. This was the first question. I said the only thing that I could think of saying; I said, "I'm sorry your honor, I don't think I understood the question. Please rephrase it." There were gasps in back of me from the audience as if I were a skater who fell during the first jump at the Olympics. But all the other justices smiled at me as if to say, "Oh, don't worry, he does that all the time," or, "Thank goodness you asked because none of us understood either."

It turned out to be such an honest moment. Justice Souter rephrased the question, and I answered it. They realized that I wasn't going to make things up. I was just going to do the best I could, and answer the questions as best I could. As a result, the rest of the argument went like a dream, like a conversation about this case that of course I had already been dealing with for six years. It finished, after thirty minutes, and I sat down. Everything ended and everybody started to leave. I thought, "Oh my goodness, did that just happen? We actually have a chance of winning." I went outside, and everybody was excited. My dad, who is a retired judge and never thought we had much chance, was excited and said, "You know, this really went well." Maria was so happy.

I returned home to Los Angeles and opened the *Daily Journal*, our legal newspaper. The headline was: "Court Likely to Reverse Altmann Case." It was a long article about how we were going to lose because of this and that. I called the journalist, David Pike, and

asked: "Why did you write this? Everybody thought it went so well." He said, "Trust me. I have been reporting on the Supreme Court for thirty years. You do not have a chance. The body language was against you." I said: "Some of the justices didn't even open their mouths." He said: "Trust me. It's all over." I said, "Well, okay, that is what everybody is expecting anyway. Do me a favor. Here is my home number. When you find out, give me a call." The journalists find out first. You do not get advance warning when they make a decision in the Supreme Court.

Sure enough, three months later, I was making breakfast for the children (it's three hours earlier in Los Angeles) and the phone rang. The voice said, "Hello, this is Dave Pike." I said, "Okay, give me the bad news." He responded saying, "No, not bad news. You won!" I almost dropped the phone. I said, "You're kidding right?" He said, "No, you won six-three. Justice Stevens wrote the opinion, dissent by Justice Kennedy. You won. I guess I was wrong." I said, "Thank goodness you were."

We were just elated. It was one of the great moments in my life. I finally reached Maria Altmann, because, of course she was getting phone calls too. We were so ecstatic and happy. After a little while, we came down to Earth and realized what we had just won. The paintings were not on a plane back; we had just won the right to *start* the lawsuit in Los Angeles. So we went back down to the district court in California and entered what I lovingly describe as "discovery hell," where the lawyers basically torture each other with various interrogatories and discovery requests.

BACK TO AUSTRIA

That lasted for about a year until there was a required, court-ordered mediation. Until this

time Austria had not shown any willingness to discuss a resolution of the case. Thus, I thought the mediation was just going to be a formality. I told the Austrian lawyers to pick the mediator, "Whoever you want," because I did not really expect anything to happen. They picked Professor Dieter Binder, a historian from Graz, Austria with no legal background, to be the mediator. "This is going to be interesting," I thought. He turned out to be a great guy. He came to Los Angeles with Austria's lawyers and met with Maria Altmann and me. He said: "You know, I get the sense in speaking to all of you that you would really like the case to be over with." I said: "After seven years and my client being eighty-nine years old now, yes, I would like the case to be over with." The Austrians agreed, although I think they had a different view of what "over with" meant at the time. Professor Binder said: "I have an idea. Why don't we do an arbitration in Austria? You pick one arbitrator; they pick the other, and those two pick a third." This sounded familiar to me. But I didn't say, "That was my idea." I said, "Let me think about it for a moment. Let me talk to my client." So I brought Maria over to the side and I said, "Maria, this is really good. This is the break we have been waiting for. We will be able to resolve the case." And she said, "Are you crazy? We just spent five years going to the Supreme Court and back to have this wonderful Judge Cooper decide our case. Why would we want to go to Austria and have three Austrian arbitrators decide it?" I said: "Maria, if you want this case decided in your lifetime, we have to take this chance. I really think we need to do it." There were endless procedural appeals that could be made in the court case in the United States. Even if we had won, there was a question of enforcement of the judgment. We could get rid of all of that by just going into an arbitration in Austria and having the case revolve around the question of Adele Bloch-Bauer's will. I was confident we could win that issue.

I prevailed upon her. My father was also against arbitration, but I was able to persuade everybody that it was the right move. Thankfully, Maria Altmann trusted me, and we agreed to do an arbitration in Austria. So in September 2005, I went to Austria and had a full day of arbitration. All in German. I had a translator with me, but, fortunately, I could

understand and speak most of it myself in German. It was an exhausting day. There were no live witnesses in this case. It was all about the documents. Even Maria Altmann was just a sidelight witness. It was all about what the documents said, and what did they mean? Where did they come from?

We had a lengthy full-day discussion and submitted the matter to the arbitrators. Then we waited. Per our agreement the arbitrators were supposed to decide in October 2005. They didn't. November came around, and also no decision. December, no decision. I was worried that we might not get a decision before Maria's ninetieth birthday, which was in February of this year. But sure enough, in mid-January, I returned home after a late night Sunday poker game. I had an e-mail from the chief arbitrator in Vienna, where it was Monday morning. The attachment was in convoluted German, and it was a full opinion. I read through it and realized we had won — *unanimously!* All three arbitrators, including the one selected by Austria, ruled in our favor and determined that Maria Altmann was entitled to recover the five Klimt paintings under Austria's 1998 art restitution law. They rejected Austria's claim that Adele Bloch-Bauer's will had determined that the paintings must go to the Austrian Gallery, and agreed with us that it was really only in 1948 that title was exchanged in return for export permits.

It was of course a great and very unexpected day for us, after the seven and a half years of working on the case, to finally have recovered the paintings. They were not in our possession yet; they were still in the Austrian Gallery Belvedere, and Austria had required, as part of the arbitration procedure, that we enter into an option agreement that gave them the right to buy the paintings. After about two weeks, however, they decided to abandon that option. In February, we had the luxury of having to decide what to do with these five amazing paintings. I had received a number of inquiries from many museums throughout the world, and the two that seemed to me the most fitting to show the paintings were the Los Angeles County Museum of Art, where Maria Altmann and I live, and the Neue Galerie here in New York. We set up the

exhibitions in a matter of weeks and had the paintings transferred to the Los Angeles County Museum. Then we announced that the Neue Galerie was purchasing the magnificent gold painting of Adele Bloch-Bauer and that the other four would be on loan to the Neue Galerie for several months over the summer, so that New Yorkers could also get a chance to see them.³

I am so pleased and proud to be at the Neue Galerie to tell you about this long saga. It is very rare when

you talk about the Holocaust that you actually have a “sort of” happy ending. We have to remember that, in the scheme of things, the looting of art ranks very low in terms of the crimes that were committed by the Nazis. It is not surprising that the recovery of art was not given high priority after the war. It is completely understandable. But it is very nice that now, so long after the war has ended, sixty years later, we can have a modicum of justice and return paintings like these to their rightful owners.

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Q&A

Q Why do you think the Austrian government did not use its option to purchase the paintings?

A E. RANDOL SCHOENBERG: It became clear to me very early on that they weren’t going to do that. Politically, the Austrian minister responded to the decision by saying, “I don’t have enough money in my budget to pay for it.” So as soon as it became a question of using money out of their budget, money that might go for schools, hospitals, police, fire, it was clear the paintings were going to lose out. Culture always loses out to those types of things if you make it a one-for-one deal. If she had said, “It’s very sad. We will either have to give up these assets or perhaps find some other assets to give up instead,” I think she could have built up the public will in Austria for a repurchase. But once they started talking about tax dollars, the writing was on the wall.

Q What was the rationale for the Ninth Circuit not accepting sovereign immunity?

A There were many arguments, almost too complicated to answer briefly. Essentially, the Ninth

Circuit agreed that it wasn’t impermissibly retroactive to apply the Foreign Sovereignty Immunities Act to these events. To use a legal term, immunity is an act of comity that one government grants toward another government. A government can remove that immunity at any time, and then it is not a question of retroactivity. That is the argument that prevailed in the Ninth Circuit and the Supreme Court.

Q Are the current frames on the Klimt paintings the ones that were on the paintings in Austria?

A These are all the original frames as far as I know. Photographs of the gold painting (*Adele I*), from an exhibit I think in 1908, show this frame, which was done by Josef Hoffman, one of the Wiener Secession artists. No one knows why there is a blank space below the painting. This is one of only three gold paintings by Klimt. There is also *The Kiss*, which is perhaps his only painting more famous than this, and *Judith and Holofernes*, which may be patterned on *Adele Bloch-Bauer I*. It has a very similar face. I’ve been told that of the gold paintings, *Adele* is in the best condition. *The Kiss* has been very damaged by a restoration attempt, and the gold is much darker, whereas *Adele* has much of the original color. So this is really one of the finest existing gold portraits.

³ Subsequent to the talk, it was announced that the four Klimt paintings would be auctioned at Christie’s New York on November 8, 2006.

Q Why was the L.A. County Museum not interested in these paintings?

A I think everybody is interested in them. . . . I don't know what happened. I brought in another lawyer, Steven Thomas, to handle the transactional details. I, fortunately, have not had to be involved and reinvent myself as an art transactional lawyer. He handled all the loan negotiations with the museums and the sale of the gold portrait, so he would have to speak to that.

Q Who were the Austrian arbitrators?

A I picked a youngish man named Dr. Andreas Nödl, a lawyer in Vienna. Austria picked a professor, the dean of the University of Vienna Law School, Walter Rechberger, and the two of them picked a professor in Linz, Austria named Peter Rummel. He's actually German born but a very famous Austrian professor. So it was two professors and one lawyer.

Q Do you know the status of the ownership claim for *Portrait of Wally* by Egon Schiele?

A Not really. I'm not involved in that case. I know it is still going on here in New York, but I don't know the current status. It's really a shame that it has dragged on this long. It is one of the difficulties with these types of cases — they do tend to drag on. I think we showed in our case how quickly they can be resolved if there is a willingness of the parties to get down to the real legal issues and not hide behind procedural difficulties.

Q Do you not think that the world-wide fame of *Adele Bloch-Bauer I* positioned it better for this outcome than if it had been a less important painting? In other words, was it not more important for the arbitrators to carefully consider and correctly decide this than if it had been a less important painting?

A That is partly true. The reason we were in this mess eight years, however, is because of the fame of the paintings. I think they latched onto the issue of the will because of that. . . . They wanted to look for



FIGURE 9. Gustav Klimt. *Portrait of a Lady*, c.1898-99. Restituted in 2004 to the heirs of Bernhard Altmann.

any excuse not to return them. When it came to the arbitration, our side was right on the law, so it would have taken a lot of effort for them to get around that. They realized it. I had obtained an opinion four years ago — and it's not improper for me to disclose this, actually Ronald Lauder's Commission for Art Recovery helped pay for part of it — from the chairman of the Institute for Civil Law in Vienna, Professor Rudolf Welser, an expert in inheritance law. He wrote a 140-page opinion with his colleague, Professor Christian Rabl, on the question of the will, going into every possible nuance and detail. I think that was just too much for the other professors to get around. Here was one of their colleagues, the expert in Austria, giving his opinion that we were correct. It would have been very difficult for them to get around that opinion.

Q There's been a very positive response here in the States to the outcome. Can you summarize the popular opinion in Austria about the government's decision not to acquire these paintings once the legal opinion had been rendered by the arbitrators?



FIGURE 10. Left: Pablo Picasso. *Femme en Blanc*, 1922. Oil on canvas. © 2006 Estate of Pablo Picasso/Artists Rights Society (ARS), New York.

FIGURE 11. Above: Canaletto. *Santa Maria della Salute*, 1727. Oil on canvas, 45 x 60 cm. Strasbourg, Musée des Beaux-Arts (Inv. no. 987-1-1). 1987 purchase made permanent in 2005 in accordance with B. Altmann's inheritors and the help of the State, the general and regional council and the patronage of Würth, France and the Coop-Alsace.

AIn Austria, very much like here, people latch onto a winner. As soon as we won, of course, everyone had been on our side from the beginning. I think the converse would have been true here too. Everyone would have said, "I told you so." In terms of public opinion, I heard that people were generally supportive. We had resolved this in an Austrian way, through arbitration. I think that helped. If we had had a U.S. judgment saying these paintings have to come back, there would always have been a question about those crazy Americans trying to stick it to us. They don't understand us, and they don't understand our language and our documents and things. But to have three Austrians say that we were right had a real impact. Maria Altmann said that she heard from a friend who was in a café when it was announced over the radio that the paintings were going to be returned that the people spontaneously cheered and clapped. . . . I don't think, however, that everybody was very happy about it. Certainly, people in the art world there were very concerned about losing these paintings, but there are some pros and cons to that also.

QYou mentioned another landscape that Ferdinand owned. What happened to that painting?

AThat painting was returned to the Austrian Gallery in 1961, when Gustav Uccicky died, along with three other paintings, one of which, an early Klimt portrait (Fig. 9), was restituted in 2004 to the heirs of Bernhard Altmann, whom I also represent. There was also the *Portrait of Amalie Zuckermandl* (Fig. 7), which I didn't get to talk about. We had a separate arbitration hearing on that, but it's too long to go into. The Zuckermandl family also claimed it, saying that Ferdinand Bloch-Bauer, from his exile in Switzerland, managed to give that painting to them, and then they sold it, supposedly under duress. The woman in the painting, Amalie Zuckermandl, was ultimately killed. Her non-Jewish son-in-law sold it. It was a very complicated case. That arbitration followed the arbitration over the five Klimt paintings on view at the Neue Galerie, and the arbitrators decided that there wasn't enough proof of our claim as to how the painting left the estate of Ferdinand Bloch-Bauer, even though we knew it was part of his estate at least until 1939, when he was in exile. Therefore, the arbitrators did not give the painting back to us. They also rejected the claim of the other family, and so that painting, unfortunately, is staying in the Austrian Gallery. I think the decision is wrong. But sometimes you

win, and sometimes you lose. It is hard for me to say that about these types of cases because I take it very personally, and I think justice should always be done. I should add that another decision around the same time, from a different arbitration panel under a different Austrian law, gave back the home of Ferdinand Bloch-Bauer in Vienna, which the heirs are recovering this year. There has been quite a lot of activity.

Q Did you do this kind of legal work before the Maria Altmann case? Is restitution what you specialize in now?

A I had no experience in art restitution before this. I have handled several other cases as a result of the notoriety of this case. One is the famous case concerning a Picasso, *Femme en Blanc* (Fig. 10),⁴ which was resolved last year with a collector in Chicago, Marilyn Alsdorf, who agreed to repurchase the painting from my client. It's a very long and interesting story that will have to wait for another day. Another case concerns a nice Canaletto (Fig. 11) in the museum in Strasbourg that was repurchased by the museum from the heirs of Bernhard Altmann. So I've handled quite a number of other cases — those are the most prominent ones — through this. It's become a field

that I like and that, I guess, I've been relatively successful at.

Q In your opinion do you think this case would have any kind of impact, in a positive way, on the Leopold Foundation case? Positive depending on which way you look at it.

A There's a lot of water under the bridge in the Egon Schiele *Portrait of Wally* case, so I'm not sure that anything from the outside will determine that. But in the broader sense, I think, the victory that we've had in this case has to have an impact. It has to give museums and collectors pause when they're confronted with claims because we've shown, against all odds, that if you clear away all the procedural hurdles, and you get down to the merits of the case — Was this painting stolen or not? Was it looted or not? Should it be returned or not? — that the claimant can be right, even sixty-five or seventy years later. I think that's important. I hope these cases will not go into arbitration or litigation but will be resolved, because collectors, when faced with claims and when faced with evidence, will realize it's not worth fighting for five, six, seven years. Rather, we should sit down and resolve the claim.

• • •

⁴ For more about this case, *Bennigson v. Alsdorf*, see *IFAR Journal*, Vol. 7, nos. 3 & 4, pp. 5–7.

SCENES FROM AN IFAR EVENING



Left to right: Monica Dugot, Herbert Hirsch, Jo Backer Laird, and Peter R. Stern.



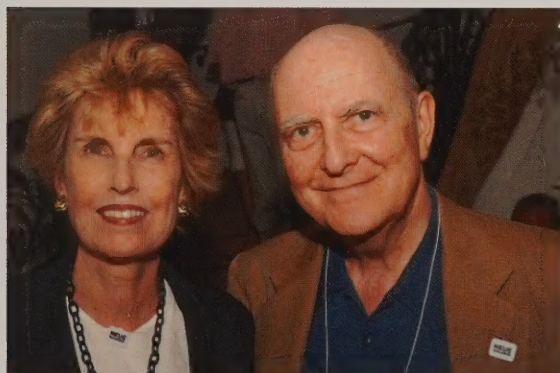
Jeremy G. Epstein and Constance Lowenthal.



Left to right: Shelby White speaking with E. Randol Schoenberg; Lucille Roussin in the background.



Donna Torrance and Thomas Jaffe.



Catherine Cahill and William Bernhard.



Left to right: Gertje Utley, Annette Blaugrund, Lee MacCormick Edwards, and Michael Crane.

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The photo of each item is accompanied by a brief description of the work, the ALR catalogue number, if registered, and the date and place of theft. An asterisk before the catalogue number means that a photograph of the stolen work is available, although not necessarily included in this issue.

Anyone wishing additional information should contact the ALR at 212.297.0941.

STOLEN ART

PAINTINGS

- 1 **KAREL APPEL** (Dutch, 1921–2006). *Head*. See color photo on inside back cover.

- 2 **AUGUST STRINDBERG** (Swedish, 1849–1912). *Night of Jealousy*, 1893. See color photo on inside back cover.

- 3 **RAFAL OLBINSKI** (Polish, b. 1943). *Tulips*. Acrylic. 18" x 27". *N06.78. Stolen from a gallery in San Francisco, California on April 20, 2006.



3

- 4 **WOUT MULLER** (Dutch, 1946–2000). *De Eerst Kip*. Oil on panel. 50 x 40 cm. *L06.138. Stolen while awaiting transport from an art fair in The Netherlands.



4

- 5 **GEORGE CLARE** (English, 1830–1900). *Still-life with Fruit*. Oil on canvas. *L06.171. Stolen from a private residence in Hampshire, England in April 2006.



5

- 6 **OTIS OLDFIELD** (American, 1890–1969). *Notes of a Promenade #2 Sutter Creek*, 1926. Oil on board. 17 7/8" x 16 1/16". Stolen from a storage facility in California. Interpol no. 20060712848.



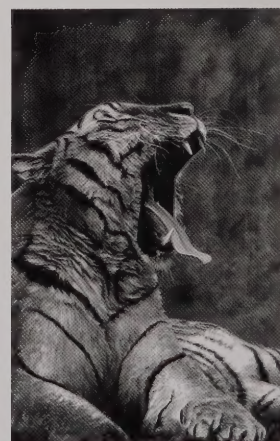
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- 7 **PETER KUHFELD** (English, b.1952). *Nude Painting*. Oil on canvas. 26.04 x 35.56 cm. *L06.182. Stolen from a London gallery in March 2006.



7

- 8 **PHILLIP ALLDER** (English, b.1950). *Late Nights, Early Mornings*. Oil on canvas. 35" x 23". One of ten works by the artist stolen from the Roundhouse Gallery in Spalding, Lincolnshire, England on March 26, 2006. See also item no. 19 below.



8

* Numbering for the year 2006/2007 Cumulative Index of Stolen Art begins with this issue.

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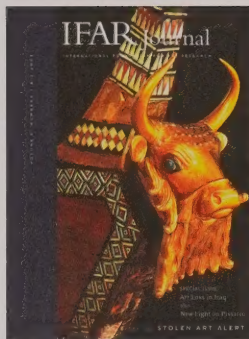
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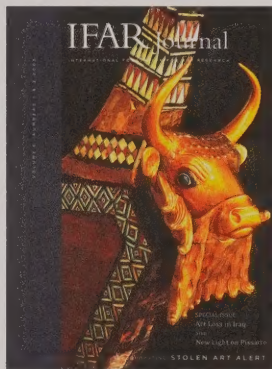
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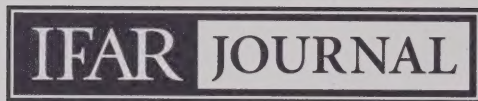
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9



10



11



12



13



14

9 **EDVARD MUNCH** (Swedish, 1863–1944). *Toward the Forest 2*. Wood engraving. Stolen from a manor in southern Sweden on May 23, 2006.

10 **JUAN MANUEL BLANES** (Uruguayan, 1830–1901). *Gaucho*. Oil on canvas, 22 x 18 cm. Stolen from an art gallery in Montevideo, Uruguay on April 13, 2006. Interpol no. 200604066632.

11 **ROGIER VAN DER WEYDEN** (after) (1399–1464). *Golgotha*. Oil. Stolen from a church in Furne, Belgium on December 24, 2005. Interpol no. 20060509403.

12 **FERNAND TOUSSAINT** (Belgian, 1873–1955). *La Place de Brouckère*. 17.5 x 26.5 cm. Stolen from a gallery in Brussels, Belgium on August 7, 2005. Interpol no. 20060509403.

13 **KIMON LOGHI** (Greek, 1871–1952). *Woman with Mask*. Oil on canvas. 65 x 60 cm. One of 21 paintings stolen from a private residence in Bucharest, Romania on April 18, 2006. Interpol Bucharest no. 6295.

14 **JOSIF ISER** (Romanian, 1881–1958). *Harlequin*. Oil on board. 36 x 27 cm. Inventory no. 120. Part of the Romanian National Cultural Patrimony. Stolen from the Romanian Academy between August 4 and August 10, 2006. Interpol no. 20060815090.

The following two paintings were stolen in Santiago, Chile on April 7, 2006. Interpol no. 20060407026:

- 15 **ALFREDO VALENZUELA PUELMA** (Chilean, 1856–1909). *Flirtation*. Oil on canvas. 61 x 57 cm.
- 16 **PEDRO LIRA** (Chilean, 1845–1912). *General Bulnes's Daughter*. Oil on canvas. 111 x 86 cm.



15



16

The following two paintings were among six stolen from the Targu Mures Museum in Romania. Interpol Bucharest no. 5709:

- 17 **HANS MATTIS-TEUTSCH** (Romanian, 1884–1960). *Soul Flowers*. Oil on cardboard.
- 18 **GHEORGHE PETRASCU** (Romanian, 1872–1949). *Still Life with Fruits*. Oil on canvas.



17



18

WORKS ON PAPER

- 19 **PHILLIP ALLDER** (English, b.1950). *Catch of the Day*. Gouache on paper, glazed. 22" x 19". One of ten works by the artist stolen from the Roundhouse Gallery in Spalding, Lincolnshire, England on March 26, 2006. See also item no. 8 above.



19



20

SCULPTURE

- 20 **BRYAN KNEALE** (English, b.1930). *Castille*. Bronze. Ht: 20 cm. *L06.32. Stolen from a London gallery in December 2005.
- 21 **EDUARDO PAOLOZZI** (British, 1924–2005). *Newton after Blake*. Bronze bas relief. 14.5 x 20.5 cm. *L06.33. Stolen from a London gallery. In December 2005.



21



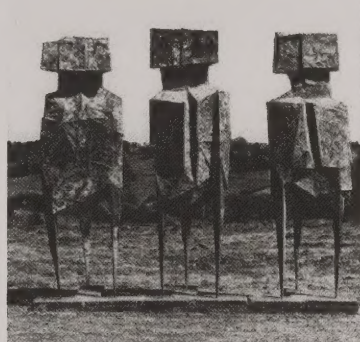
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26



27

22 **ANTHONY CARO** (English, b.1924). *Grasp*. Porcelain and steel. 20 x 3 x 13 cm. *L06.34. Stolen from a London gallery in January 2006.

23 **FRANCO ADAMI** (Italian, b.1933). *Feminin*. Marble. 20 x 12 x 18 cm. *L06.82. Stolen from a London gallery in February 2006.

24 **DIEGO GIACOMETTI** (Swiss, 1902–1985). *Le Chat Maître d'Hôtel*. Bronze. Ht: 30 cm. *L06.197. Stolen from a private residence in Luzarches, France in September 2005.

25 **LYNN CHADWICK** (English, 1914–2003). *The Watchers*. Bronze. Ht: 7'. Stolen from the grounds of Roehampton University, London, England on January 10, 2006.

26 **SAMUEL TONKISS** (English, 1909–1992). *L. S. Lowry*, c.1971. Bronze. Ht.: 14". Stolen from Manchester Art Gallery, Manchester, England on May 20, 2006.

27 *Christ with Scepter* (French, 12th century). Stone. Wt: 150 kg. Part of the French National Heritage. Stolen from a church in Balignicourt, France sometime between August 10 and August 31, 2006. Interpol no. 20060916343.

The following two statues were among four stolen from a church in Longueval, France on July 2, 2006. Interpol no. 20060713968:

- 28 *Education of the Virgin* (French, 15th century). Polychrome wood. Ht: 83 cm.
- 29 *Saint Macre* (French, 16th century). Polychrome wood. Ht: 132 cm.

The following four cast bronze statues by Preston Jackson (American, 20th century) were stolen from a Chicago gallery. Interpol no. 20060406387:

- 30 *The Flight of Charlie T. & Vadalina*, c.2003. 24" x 12" x 22".
- 31 *Azalea*, c.2005. 12" x 12" x 18".
- 32 *Annie Pearl's Baby Girl*, c.2005. 15" x 12" x 15".
- 33 *Danger on Mule Head Island*, c.2005. 36" x 14" x 24".



28



29



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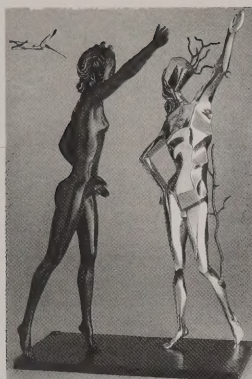
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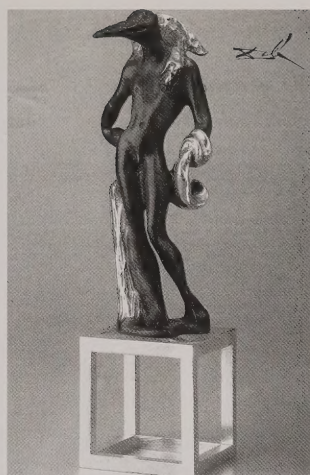
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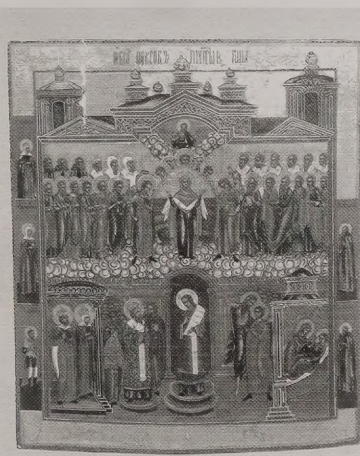
35

The following two sculptures by Salvador Dalí (Spanish, 1904-1989) were stolen from a gallery in Pontresina, Switzerland on March 28, 2006.
*N06.54:

- 34 *Homage to Terpsichore (The Dance)*. Bronze and patina. 70.5 cm.
- 35 *The Bird Man*. Bronze and patina. 27 cm.

ICONS

- 36 *Holy Virgin Theotokos with Saints* (Russian, 18th century). Stolen in Kazakhstan on March 22, 2006. Interpol no. 20060610521.



36



37

The following six icons were among 221 items stolen from the State Hermitage Museum in St. Petersburg, Russia. See also, story on p. 11 and items 52-70. The losses were discovered during a routine inventory check in late July 2006. According to police, the theft, perpetrated with the help of a now deceased museum curator, occurred over a period of time. For a complete listing and description of all the stolen items, see the Hermitage Website at www.hermitagemuseum.org. At press time, a number of items, not published here, had been recovered:



38

- 37 *Our Lady of Vladimir* (Russian, late 19th century). Wood covered with polychrome cloisonné enamel in a gilded silver frame with bas relief ornamentation. The frame has two hallmarks: "ÀÊÔÇÌÈ×ÅÅÛ" and in an oval the silver assay mark 84 and a woman's head facing left.
- 38 *Our Lady of Kazan* (Russian, 1894). Wood covered with silver decorated with polychrome cloisonné enamel. The silver has four hallmarks: "АН," "АА/1894," "84," and the emblem of the city of Moscow.

- 39 *Our Lady of Czestochowa*. In a gilded silver setting with enamel. Hallmarks: “ÑÆ” -atelier owner S.I. Zharov, Moscow assay administration with “84” silver standard.



39

- 40 *Savior, the Almighty*. Wood in a gilded silver setting with enamel. Along the lower edge are the hallmarks: “ÑÄ”, “ÄÄ/1896”, “84” and the emblem of the city of Moscow. All the enameled overlays have the hallmarks “ÑÄ.”



40

- 41 *St Panteleimon* (late 19th century). Wood in a gilded silver frame with cloisonné enamel. On the reverse, a silver plaque with engraved inscription. On the frame are two hallmarks: “I.IÄ×EÍEÊIÄ” and in an oval hallmark “84,” plus a depiction of a head in profile facing left.



41

- 42 *Holy Trinity* (late 19th century). Wood in a gilded and chased silver setting with cloisonné enamel. The back side of the icon is covered in lilac-colored velvet with an attached gilded silver plaque with inscription in blue enamel. On the frame are two hallmarks: “ÄI”, “Ä.IÄØEÍÄÜ” and in an oval, the 84 silver assay mark and a depiction of a woman’s head in profile.



42

NATIVE AMERICAN ART

The following Cedar Grove Caddoan pottery vessels were among 26 such items stolen from the Southern Arkansas University Archaeological Research Station of the Arkansas Archaeological Survey, Magnolia, Arkansas sometime between May and July 2006. The vessels are from Indian graves subject to the provisions of the Native American Graves Protection and Repatriation Act (NAGPRA). Interpol no. 20060814559:

- 43 *Hodges Engraved Bottle*. Ht: 92 mm. Cat. no. 80-1209-1175. Photo no. 815529.



43



44



45

44 *Avery Engraved Bowl*. Ht: 97 mm.
Cat. no. 80-1209-1257. Photo no.
815528.

45 *Keno Trilled Bottle*. Ht. 109 mm.
Cat. no. 80-1209-1303. Photo no.
815524.



46



47

46 *Avery Engraved Bowl*. Ht. 165 mm.
Cat. no. 80-1209-710. Photo no.
815480.

47 *Natchitoches Engraved Bowl*.
Ht: 72 mm. Cat. no. 80-1209-713.
Photo no. 815500.

TEXTILES, TAPESTRIES

48 *Tapestry*. 116" x 88". *N06.86.
Stolen from a rug gallery in
Englewood, NJ on April 4, 2006.

DECORATIVE ARTS

CERAMICS, POTTERY, PORCELAIN

49 LOUISE BOURGEOIS (French/
American, b.1911). *Fallen Woman*
(Bour - 4656). Porcelain. 3 1/4" x 12"
x 3". *N06.45. Stolen from a New
York gallery on January 18, 2006.



49



48

CLOCKS, WATCHES, TIMEPIECES

50 *Charles X Mantel Clock*
(19th century). Bronze. 16" x 14".
*N06.24. Stolen from a New York
gallery on December 30, 2005.



50



51

51 PHILIPPE CAFFIERI
(Italian/French, 1634-1716).
Wall Clock. Gilded bronze.
Ht: 40 cm. Stolen from a chateau in
St. Opportune, France on October 1,
2005. Interpol no. 20051015901.

The following 19 Russian items were among 221 stolen from the State Hermitage Museum in St. Petersburg, Russia. See also item nos. 37–42 above.

CLOCKS

- 52 *Clock* (Russian, second half of the 19th century). Gold with enamel and chrysolites. Under the lower cover is a medallion with a photograph under glass.



52



53

JEWELRY

- 53 *Clasp Brooch* (late 19th century). With diamonds and emeralds. No hallmarks.

LITURGICAL ITEMS

- 54 *Chalice* (mid-19th century). With gilding and gemstones. The edge has four hallmarks: "ÄÖ 1841"; "84"; "IÄ"; and the emblem of the city of St. Petersburg.
- 55 *Chalice* (c.1856). Silver with gilding, enamel, and glass. On the base are four hallmarks: [ÄÊ/1856], [IÄ], [84] and the emblem of the city of Moscow, enamel on copper.
- 56 *Chalice* (c.1856). Silver with gilding, enamel, and glass. On the base are four hallmarks: [ÄÊ/1856], [IÄ], [84] and the emblem of the city of Moscow, enamel on copper.
- 57 *Chalice* (first half of the 19th century). With gilding, enamel, and glass. Along the edge and on the stem are the hallmarks: ÄÊ; IÄ;; 84 and the emblem of the city of Moscow.



54



55



56



57



58



59



60



62



61



64



63



65

58 *Chalice* (c.1911). Silver with enamel and gilding. With the engraved initials $\text{I}\ddot{\text{I}}$ and date 19 IV 1911. On the bottom there are two hallmarks: $[\text{I}\ddot{\text{I}}\ddot{\text{A}}\times\text{E}\ddot{\text{I}}\ddot{\text{I}}\ddot{\text{E}}\ddot{\text{I}}\ddot{\text{A}}]$ and in an oval, the silver assay mark 84 and a depiction of a woman's head.

59 *Altar Cross* (c.1806). Niello. At the lower end there are 4 hallmarks: $\text{I}\ddot{\text{I}}806$; $\text{A}\ddot{\text{O}}\ddot{\text{A}}$; 84 and $\text{A}\ddot{\text{A}}$.

MISCELLANEOUS

60 *Picture Frame* (early 19th century). White maple with enamel in a gilded silver mounting and with a photograph of a girl under glass.

61 *Bear*. Obsidian with gold and enamel; the eyes and the decoration of the chain and the drum are made from leicosapphires. Forged Fabergé.

62 *Frog*. Green jasper with glass eyes; in the mouth a golden arrow with 18 leicosapphires and enamel. A forged Fabergé; false hallmarks.

63 *Seated Monkey on a Pillow with a Ladle*. Semiprecious stones. Forged Fabergé.

64 *Seated Monkey* (c.1980). Chalcedony with colorless stone eyes. In a case. Forged Fabergé.

65 *Seated Monkey* (c.1980). Chalcedony with colorless stone eyes. Forged Fabergé.

SILVER

- 66 *Powder Case* (c.1908–1917). Silver with a hinged lid, enamel work, and gilding inside. Hallmarks: “61A”; “84”; by the Moscow Assay Administration.
- 67 *Salt Cellar* (late 19th century). See color photo on inside back cover.
- 68 *Salt Cellar* (late 19th century). See color photo on inside back cover.
- 69 *Salt Cellar*. Silver with enamel. Hallmarks: “ÖI”— the silversmith F.D. Mishukov; Moscow Assay Administration with assay inspector Ivan Lebedkin—”ЕЕ”.
- 70 *Cigar Case* (c.1880). See color photo on inside back cover.



66



69



72

ANTIQUITIES

- 72 *Brooch* (Turkish, 6th century BC). Winged horse-shape sea monster. Gold and glass. Ht: 3.4 cm. W: 2 cm. Stolen from the Usak Museum, Turkey and replaced with a fake in 2005. Inventory no. 1.87.96. Interpol no. 20060712587. The brooch was one of 363 pieces, known as the Lydian Hoard, unearthed in the 1960s near Usak. Turkey successfully reclaimed this piece and others in 1993 from the Metropolitan Museum of Art in New York after a long legal battle.

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1



2



3



4



5

MISSING ART

PAINTINGS

- 1 **JACOB OCHTERVELT** (Dutch, 1634–1682). *Portrait of a Young Man Wearing a Cap with a Feather*. Oil on panel. 13 x 9.6 cm. *L06.21. Missing from an art dealership in Amsterdam.
- 2 **JON SCHUELER** (American, 1916–1992). *The Lake*. Oil on canvas. 54 x 48 cm. *N06.77. Discovered missing from a New York gallery on March 7, 2006.
- 3 **GEORGE COCHRAN LAMB DIN** (American, 1830–1896). *Yellow and White Roses*. Oil on canvas. 29½" x 19½". *N06.38. Lost in transit in Goochland, VA on February 24, 2006.

PRINTS, LITHOS

- 4 **MARK WALLINGER** (English, b.1959). *Ghost* (2 eds.) Lithograph. 56 x 48 cm. *L06.151. Lost during the owner's move to a new London residence in November 2005.

SCULPTURE

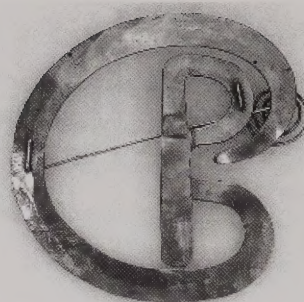
- 5 **RHODE BATH-SCHEBA MAKOUNBOU** (Congolese, 20th century). *Le joueur de tam-tam*, c.2005. Iron wire, sawdust and wood-glue with oil paint. 52 x 40 cm. Signed in black. One of five similar works reported missing from a warehouse in France in February 2006. Interpol no. 20060304674.

* Numbering for the year 2006/2007 Cumulative Index of Missing Art begins with this issue.

DECORATIVE ARTS

GEMSTONES, JEWELRY

- 6 **ALEXANDER CALDER** (American, 1898–1976). *Pin*. Brass and wire. 4" x 1½". *N06.74. Discovered missing from a New York auction house on December 21, 2005.



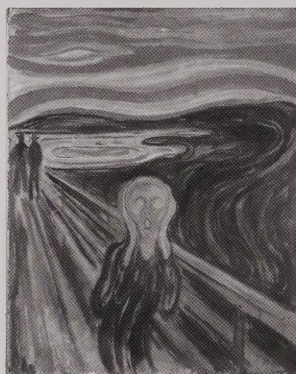
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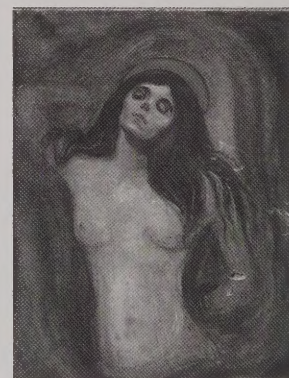
7

TEXTILES, TAPESTRIES

- 7 *Feuilles de Choux (Cabbage Leaves) Tapestry*. Wool and silk. 120" x 106". *N06.69. Lost while in transit from the U.S. to France on December 9, 2002.



1



2

RECOVERED ART

The following two paintings by **EDVARD MUNCH** (Norwegian, 1863–1944), stolen at gunpoint from the Munch Museum, Oslo, Norway on August 22, 2004 (see story on p. 6, this issue IFAR Journal, and Vol. 7, no. 2, 2004), were recovered by Norwegian police on August 31, 2006:

- 1 *The Scream*, 1893. Tempera on board.
- 2 *Madonna*, c.1894–95. Oil on canvas.



3

- 3 **PALA-SENA** (Indian, 12th century). *Durga Mahisasuramardini*. Black stone, possibly phyllite. Approx. ht: 182.9 cm. Published in *Oriental Art*, p. 26, no. 1, Spring '88, vol. 34. *N88.472.1. Stolen in Bangladesh, India on January 1, 1979. (See *IFARreports*, Vol. 9, no. 9, 1988, item no. 903.)

* Numbering for the year 2006/2007 Cumulative Index of Recovered Art begins with this issue.

LETTERS TO THE EDITOR

REMINDER

"Letters to the Editor" are welcome in *IFAR Journal*. Please keep letters brief. We reserve the right to edit for length. All letters must be signed. Please fax or mail letters to:

Dr. Sharon Flescher
Editor-In-Chief
IFAR Journal

500 Fifth Avenue, Suite 935
New York, NY 10110
Fax: (212) 391-8794

RECOVERED ART

In August 2006, Interpol reported the recovery of the following nine engravings by Rembrandt (Dutch, 1606–1669) that were stolen from the Academy of Fine Arts in Vienna on October 11, 1989. (See IFARreports, Vol. 11, no. 1, nos. 81–89):



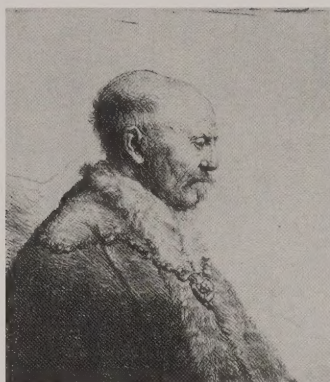
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11



12

4 *The Adoration of the Shepherds.*

148 x 198 cm. Bartsch 46–II [IV].

*N90.52.2.

5 *Circumcision in the Stable, 1654.*

Signed and dated left (twice):

Rembrandt f. 1654. Bartsch 47–[I].

6 *The Descent from the Cross by*

Torchlight. 210 x 161 cm. Signed and dated l/l: Rembrandt f. 1654. Bartsch no. 83. *N90.52.5.

7 *Landscape with Cottages Beside a*

Road. 161 x 202 cm. Signed and dated lower left: Rembrandt f. 1650. Bartsch 217–II [III]. See color photo on inside back cover.

8 *Bald Old Man in Right Profile.*

118 x 97 cm. Signed and dated (twice) in bottom margin: RL 1630. Bartsch 292–II. *N90.52.9.

9 *The Return of the Prodigal Son.*

156 x 136 cm. Signed and dated lower center: Rembrandt f. 1636. Bartsch 91. *N90.52.6.

10 *Self-portrait Wearing a Beret with Feather.* 134 x 103 cm.

Signed and dated u/l: Rembrandt f.1638. Bartsch 20. *N90.52.1.

11 *Saint Jerome Kneeling in Prayer.*

114 x 80 cm. Signed and dated upper right: Rembrandt f. 1635. Bartsch 102. *N90.52.7.

12 *The Triumph of Mordecai.*

174 x 215 cm. Bartsch 40. *N90.52.4.

CUMULATIVE INDEX OF STOLEN ART

PUBLISHED IN VOL. 8, NOS. 1-4 (2005/2006)

- | | | |
|------------------------------|-------------------------|--|
| Asian Art 42, 81 | Jewelry 34, 83 | Prints, Lithos, Etchings 20, 73, 74 |
| Blanes, J. M. 4 | Kafka, B. 24 | Roman Antiquities 41 |
| Blumenfeld, H. 22 | Kilimnik, K. 50 | Rouault, G. 6 |
| Bonnard, P. 67 | Matisse, H. 61 | Rouart, M. 53, 70, 71 |
| Brancusi, C. 23 | Measureur 32 | Rubel 34 |
| Brandeis, A. 12 | Miscellaneous 38-40, 84 | Rugs, Carpets, Tapestries, Textiles 35, 82 |
| Braque, G. 5 | Mixed Media 64 | Sculpture 21-27, 75-80 |
| Calder, A. 21 | Monet, C. 63 | Silver 36, 37, 85, 86 |
| Chagall, M. 73 | Moore, H. 76 | Soderberg, G. 52 |
| Clocks 31-33 | Mozzani, L. 87 | Utrillo, M. 7, 8 |
| Cora, V. 49 | Musical Instruments 87 | Vallien, B. 26, 27 |
| Cross, H-E. 66 | Paintings 1-17, 49-63 | Venneman, C. 11 |
| Dalí, S. 60 | Para, E. G. 55 | Vuillard, E. 68 |
| Decorative Arts 31-40, 83-86 | Pasch, J. the Elder 51 | Warhol, A. 20, 65 |
| Delacroix, E. 19 | Pelletier, A. 33 | Weiler, M. 40 |
| Dufy, R. 69 | Perona, R. 2 | Wesselman, T. 64 |
| Flanagan, B. 75 | Picasso, P. 62, 74 | Works on Paper 18, 19, 65-72 |
| Gansovskaya, I. 58, 59 | Pissarro, C. 18 | |
| Hassam, C. 9, 10 | Postlewaite, M. 56, 57 | |
| Honthorst, G. von 17 | Pre-Columbian Art 43-48 | |
| Icons 28-30 | Preiss, F. 77, 78 | |

CUMULATIVE INDEX OF MISSING ART

PUBLISHED IN VOL. 8, NOS. 1-4 (2005/2006)

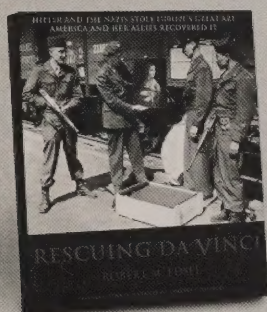
- | | | |
|-------------------|------------------|--------------------|
| Ceramics 8 | Laske, O. 3 | Paintings 1 |
| Checa, M. 7 | Matisse, H. 6 | Prints, Lithos 6 |
| Codazzi, V. 1 | Maze, P. 4 | Sculpture 2, 7 |
| Decorative Arts 8 | Modigliani, A. 5 | Works on Paper 3-5 |

CUMULATIVE INDEX OF RECOVERED ART

PUBLISHED IN VOL. 8, NOS. 1-4 (2005/2006)

- | | | |
|-----------------|----------------------|------------------------|
| Burkel, H 11-13 | Goya, F. de 5 | Rembrandt, H. van R. 3 |
| Cellini, B. 7 | Jansem, J. 18, 19 | Renoir, P-A. 2, 10 |
| Cézanne, P. 8 | Jewelry 6 | Soutine, C. 14, 15 |
| Colman, S. 4 | Millet, J-F. 1 | Utrillo, M. 16 |
| Gauguin, P. 9 | Paintings 1-5, 11-19 | Vlaminck, M. de 17 |

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STOLEN ART



1



2

- 1 **KAREL APPEL** (Dutch, 1921–2006). *Head*. Acrylic on canvas. 116 x 89 cm. *L06.38. Stolen from a gallery in Amsterdam in December 2005.
- 2 **AUGUST STRINDBERG** (Swedish, 1849–1912). *Night of Jealousy*, 1893. Oil on canvas. 41 x 32 cm. *L06.90. Stolen from the Strindberg Museum in Stockholm, Sweden in February 2006.

The following three items were among 221 stolen from the State Hermitage Museum in St. Petersburg, Russia. See story p. 11 and items nos. 37-42 and 52-70, this issue. See also, the Hermitage Website at www.hermitagemuseum.org.



67



68

- 67 *Salt Cellar* (Russian, late 19th century). Gilded silver covered with cloisonné enamel. The cover has a gilded two-headed eagle and two hallmarks: "NA" and "88."
- 68 *Salt Cellar* (Russian, late 19th century). Gilded silver decorated with polychrome cloisonné enamel and with two silver marks: "Grachev Brothers" and in an oval, "84" and the emblem of St. Petersburg.
- 70 *Cigar Case* (Russian, c.1880). Silver with gilding and polychrome enamel. The lid has an overlaid element with a silver monogram. Hallmarks: "Ôl," "84," and the emblem of Moscow.



70



7

RECOVERED ART

- 7 **REMBRANDT** (Dutch, 1606–1669). *Landscape with Cottages Beside a Road*. 161 x 202 cm. Signed and dated l/l: Rembrandt f. 1650. One of three copies; Bartsch no. 217. *N90.52.8. Stolen from the Academy of Fine Arts in Vienna on October 11, 1989, and reported recovered in August 2006. See also item nos. 4-12, Recovered Art, this issue.

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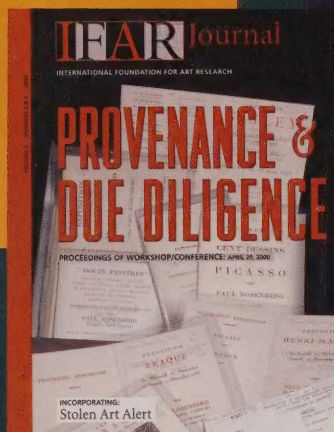
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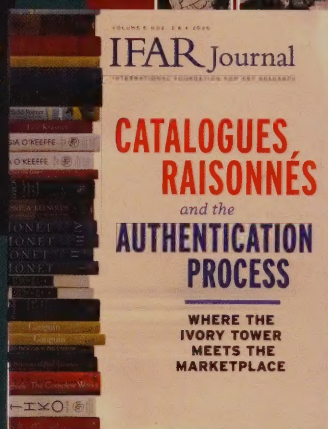
Art Theft: its scope, its impact, and its control

by Bonnie Burnham



INDEX OF STOLEN ART

1977



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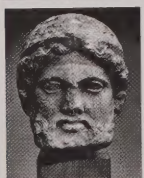
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Volume 1, Number 1, Spring 1999

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Volume 1, Number 1, Spring 1999

Volume 1, Number 1, Spring 1999

Volume 1, Number 1, Spring 1999

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Stolen Art Alert

Volume 1, Number 1, Spring 1999



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